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# INTERNATIONAL REVIEW

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## OF THE RED CROSS



Published every two months by the  
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## **A note from the Editor**

*The Martens clause forms part of the absolute core of knowledge which all legal experts interested in international humanitarian law must possess. Should they forget the finer points of the Geneva Conventions, the Protocols additional thereto and the rules of customary law, they would still remember the essential principle which states that, even in the absence of a specific rule (or prohibition), "civilians and combatants remain under the protection and authority of the principles of international law derived from established custom, from the principles of humanity and from the dictates of public conscience" (as worded in Additional Protocol I). The International Court of Justice has just reaffirmed the topical nature of this principle — which does, however, date back almost one hundred years — in its Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons. In his contribution Professor Rupert Ticehurst discusses the history and significance of the clause, whose author, Fyodor Fyodorovich Martens, was the subject of an article in the May-June 1996 edition of the Review.*

*In December 1996, six ICRC staff members were murdered while on mission in Chechnya. The Review briefly informed its readers of the murder in its November-December issue. Today it looks back on those tragic events, with special emphasis on the immediate conclusions that the ICRC drew from the attack.*

*This issue contains several other texts and items of information dealing with matters pertaining to humanitarian action in the event of armed conflict.*

*Finally, the Review is pleased to announce that the Paul Reuter Prize has been awarded to two figures well known to its readers, Professor Geoffrey Best and Major-General A.V.P. Rogers. It extends its congratulations to both prize winners.*

**The Review**

# The Martens Clause and the Laws of Armed Conflict

by Rupert Ticehurst

The Martens Clause has formed a part of the laws of armed conflict since its first appearance in the preamble to the 1899 Hague Convention (II) with respect to the laws and customs of war on land:

“Until a more complete code of the laws of war is issued, the High Contracting Parties think it right to declare that in cases not included in the Regulations adopted by them, populations and belligerents remain under the protection and empire of the principles of international law, as they result from the usages established between civilized nations, from the laws of humanity and the requirements of the public conscience.”

The Clause was based upon and took its name from a declaration read by Professor von Martens, the Russian delegate at the Hague Peace Conferences 1899.<sup>1</sup> Martens introduced the declaration after delegates at the Peace Conference failed to agree on the issue of the status of civilians who took up arms against an occupying force. Large military powers argued that they should be treated as *francs-tireurs* and subject to execution, while smaller states contended that they should be treated as lawful combatants.<sup>2</sup> Although the clause was originally formulated to resolve this

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<sup>1</sup> The life and works of Martens are detailed by V. Pustogarov, “Fyodor Fyodorovich Martens (1845-1909) — A Humanist of Modern Times”, *International Review of the Red Cross (IRRC)*, No. 312, May-June 1996, pp. 300-314.

<sup>2</sup> See F. Kalshoven, *Constraints on the Waging of War*, Martinus Nijhoff, Dordrecht, 1987, p. 14.

particular dispute, it has subsequently reappeared in various but similar versions in later treaties regulating armed conflicts.<sup>3</sup>

The problem faced by humanitarian lawyers is that there is no accepted interpretation of the Martens Clause. It is therefore subject to a variety of interpretations, both narrow and expansive. At its most restricted, the Clause serves as a reminder that customary international law continues to apply after the adoption of a treaty norm.<sup>4</sup> A wider interpretation is that, as few international treaties relating to the laws of armed conflict are ever complete, the Clause provides that something which is not explicitly prohibited by a treaty is not *ipso facto* permitted.<sup>5</sup> The widest interpretation is that conduct in armed conflicts is not only judged according to treaties and custom but also to the principles of international law referred to by the Clause.

The Advisory Opinion of the International Court of Justice (ICJ) on the legality of the threat or use of nuclear weapons issued on 8 July 1996, involved an extensive analysis of the laws of armed conflict.<sup>6</sup> Although this analysis was specific to nuclear weapons, the Opinion required general consideration of the laws of armed conflict. Inevitably, the oral and written submissions to the ICJ and the resulting Opinion made considerable reference to the Martens Clause, revealing a number of possible interpretations. The Opinion itself did not provide a clear understanding of the Clause. However, State submissions and some of the dissenting opinions provided very interesting insight into its meaning.

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<sup>3</sup> Preamble, 1907 Hague Convention (IV) respecting the laws and customs of war on land, reprinted in A. Roberts and R. Guelf, *Documents on the Laws of War*, 2nd ed., Clarendon Press, Oxford, 1989, p. 45; the four 1949 Geneva Conventions for the protection of war victims (GC I: Art. 63; GC II: Art. 62; GC III: Art. 142; GC IV: Art. 158), *op. cit.*, pp. 169-337; 1977 Additional Protocol I, Art. 1(2), *op. cit.*, p. 390, and 1977 Additional Protocol II, Preamble, *op. cit.*, p. 449; 1980 Weapons Convention, Preamble, *op. cit.*, p. 473.

<sup>4</sup> C. Greenwood, "Historical Development and Legal Basis", in Dieter Fleck (ed.), *The Handbook of Humanitarian Law in Armed Conflicts*, Oxford University Press, Oxford/New York, 1995, p. 28 (para. 129).

<sup>5</sup> Y. Sandoz, C. Swinarski, B. Zimmermann (eds.), *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949*, ICRC/Martinus Nijhoff, Geneva, 1987, p. 39 (para. 55); N. Singh and E. McWhinney, *Nuclear Weapons and Contemporary International Law*, 2nd ed., Martinus Nijhoff, Dordrecht, 1989, pp. 46-47.

<sup>6</sup> International Court of Justice, *Legality of the threat or use of nuclear weapons*, of 8 July 1996 (hereinafter referred to as "Opinion"). — See R. Ticehurst, "The Advisory Opinion of the International Court of Justice on the legality of the threat or use of nuclear weapons", *War Studies Journal*, Autumn 2(1), 1996, pp. 107-118.

In its submission, the Russian Federation argued that, as a complete code of the laws of war was formulated in 1949 and 1977, the Martens Clause is now redundant.<sup>7</sup> Both the Geneva Conventions of 1949 and the two Protocols additional thereto of 1977 restated the Martens Clause.<sup>8</sup> Furthermore, the 1977 Diplomatic Conference which led to the drafting of Additional Protocol I underlined the continuing importance of the Martens Clause by moving it from the preamble, where it first appeared in the 1973 draft, to a substantive provision of the Protocol. Undoubtedly, therefore, the Martens Clause is still relevant. This was confirmed by Nauru, stating that "... the Martens Clause was not an historical aberration. Numerous modern-day conventions on the laws of war have ensured its continuing vitality."<sup>9</sup>

The UK argued that the Martens Clause makes clear that the absence of a specific treaty prohibition on the use of nuclear weapons does not in itself mean that the weapons are capable of lawful use. However, they argued that the Martens Clause does not itself establish their illegality — it is necessary to point to a rule of customary international law for a prohibition. The UK then stated that "it is ... axiomatic that, in the absence of a prohibitive rule applicable to a particular state, the conduct of the state in question must be permissible ..."<sup>10</sup> It is clear that the UK adopted a narrow interpretation of the Clause, reducing the Martens Clause to the status of a reminder of the existence of positive customary norms of international law not included in specific treaties.

In its Opinion, the ICJ merely referred to the Martens Clause stating that "it has proved to be an effective means of addressing the rapid evolution of military technology."<sup>11</sup> This gives little guidance as to how the Clause should be interpreted in practice. Some of the dissenting opinions were more revealing. Judge Koroma, in his dissent, challenged the whole notion of searching for specific bans on the use of weapons, stating that "the futile quest for specific legal prohibition can only be attributable to an extreme form of positivism."<sup>12</sup>

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<sup>7</sup> Russian Federation, written submission on the Opinion requested by the General Assembly, p. 13.

<sup>8</sup> See footnote 2 above.

<sup>9</sup> Nauru, written submission on the Opinion requested by the World Health Organization, p. 46.

<sup>10</sup> United Kingdom, Written Submission on the Opinion requested by the General Assembly, p. 21.

<sup>11</sup> Opinion, para. 78.

<sup>12</sup> Dissenting Opinion of Judge Koroma, p. 14.

Judge Shahabuddeen, in his dissent, provides a very thorough analysis of the Martens Clause. He commences by referring to the ICJ's Advisory Opinion, paragraphs 78 and 84, where the Court determined that the Martens Clause is a customary rule and is therefore of normative status. In other words, the Clause itself contains norms regulating State conduct. With reference to submissions made by states such as the UK, noted above, he stated that "[i]t is difficult to see what norm of State conduct it lays down if all it does is to remind States of norms of conduct which exist wholly *dehors* the Clause."<sup>13</sup> Judge Shahabuddeen is clearly of the opinion that the Martens Clause is not simply a reminder of the existence of other norms of international law not contained in a specific treaty — it has a normative status in its own right and therefore works independently of other norms.

In support of this contention, Judge Shahabuddeen referred to the Hague Peace Conference of 1899 at which the delegate for Belgium objected to certain draft provisions being included in the final Convention. However once the declaration of Professor Martens was adopted by the Conference, the delegate was able to vote in favour of the disputed provisions. Judge Shahabuddeen concludes that this change in position arose because the delegate took the view, not dissented from by other delegates, that the Martens Clause provided the protection that the disputed provisions failed to provide and was therefore of normative status.

Judge Shahabuddeen stated that the principles of international law referred to in the Clause are derived from one or more of three different sources: usages established between civilized nations (referred to as "established custom" in Article 1[2] of Additional Protocol I), the laws of humanity (referred to as the "principles of humanity" in Article 1[2]) and the requirements of the public conscience (referred to as the "dictates of public conscience" in Article 1[2]). It appears that, when determining the full extent of the laws of armed conflict, the Martens Clause provides authority for looking beyond treaty law and custom to consider principles of humanity and the dictates of the public conscience.

This position is supported by the International Law Commission, which has stated that "[the Martens Clause] ... provides that even in cases not covered by specific international agreements, civilians and combatants remain under the protection and authority of the principles of international

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<sup>13</sup> Dissenting Opinion of Judge Shahabuddeen, p. 21.

law derived from established custom, from the principles of humanity and from the dictates of public conscience.”<sup>14</sup>

The Martens Clause is important because, through its reference to customary law, it stresses the importance of customary norms in the regulation of armed conflicts. In addition, it refers to “the principles of humanity” and “the dictates of the public conscience”. It is important to understand the meaning of these terms. The expression “principles of humanity” is synonymous with “laws of humanity”; the earlier version of the Martens Clause (Preamble, 1899 Hague Convention II) refers to “laws of humanity”; the later version (Additional Protocol I) refers to “principles of humanity”. The principles of humanity are interpreted as prohibiting means and methods of war which are not necessary for the attainment of a definite military advantage.<sup>15</sup> Jean Pictet interpreted humanity to mean that “... capture is preferable to wounding an enemy, and wounding him better than killing him; that non-combatants shall be spared as far as possible; that wounds inflicted be as light as possible, so that the injured can be treated and cured; that wounds cause the least possible pain; that captivity be made as endurable as possible.”<sup>16</sup>

This part of the Martens Clause does not add a great deal to the existing laws of armed conflict as the protection extended by the principles of humanity appears to mirror the protection provided by the doctrine of military necessity. This doctrine requires that no more force than is strictly necessary be used to attain legitimate military objectives.<sup>17</sup> The doctrine is already well established in treaties such as the Hague Regulations of 1907, which were expressly recognised as declaratory of custom by the International Military Tribunal at Nuremberg in 1946.

In relation to “the dictates of the public conscience”, Nauru argued in its submission before the ICJ that the Martens Clause authorizes the Court, when attempting to determine the scope of the humanitarian rules of armed conflict, to look to legal communications expressed by, or in the name of, the dictates of the public conscience. It referred to a “host of

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<sup>14</sup> UN Report of the International Law Commission on the Work of its Forty-sixth Session, 2 May - 22 July 1994, GAOR A/49/10, p. 317.

<sup>15</sup> E. Kwakwa, *The International Law of Armed Conflict: Personal and Material Fields of Application*, Kluwer Academic, Dordrecht, 1992, p. 36.

<sup>16</sup> J. Pictet, *Development and Principles of International Humanitarian Law*, Martinus Nijhoff and Henry Dunant Institute, Dordrecht/Geneva, 1985, p. 62.

<sup>17</sup> See E. Kwakwa, *op. cit.* (note 15), pp. 34-38.

draft rules, declarations, resolutions, and other communications expressed by persons and institutions highly qualified to assess the laws of war although having no governmental affiliations." It cited, for example, the 1989 Hague Declaration on the "Illegality of Nuclear Weapons" by the International Association of Lawyers Against Nuclear Arms (IALANA). This was unanimously declared by lawyers from East and West, "affirming that the use and threat of use of nuclear weapons is a war crime and a crime against humanity, as well as a gross violation of other norms of international customary and treaty law..."<sup>18</sup>

Judge Shahabuddeen determined that the Court must confine itself to sources which speak with authority. He referred, in particular, to United Nations General Assembly (UNGA) resolutions. There have been a whole series of UNGA resolutions condemning the use of nuclear weapons. For example, UNGA resolution 38/75 (15 December 1983) states that the General Assembly "resolutely, unconditionally and for all time condemns nuclear war as being contrary to human conscience and reason..." Neither this nor other resolutions were adopted unanimously and so are unlikely to reflect the existence of a customary norm *de lege lata*. However, such resolutions do provide evidence of the public conscience.<sup>19</sup> Judge Shahabuddeen concluded that the public conscience, as found for example in UNGA resolutions, could be viewed to oppose the use of nuclear weapons as unacceptable in all circumstances.

This position was supported by the state's submissions. For example, Australia wrote that "[t]he question is not whether the threat or use of nuclear weapons is consistent with any of these instruments, but whether the threat or use of nuclear weapons is *per se* inconsistent with the general principles of humanity. All these instruments ... provide cumulative evidence that weapons having such potentially disastrous effects on the environment, and on civilians and civilian targets, are no longer compatible with the dictates of public conscience."<sup>20</sup> Japan also stated that

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<sup>18</sup> Nauru, written submission on the advisory opinion requested by the World Health Organization, p. 68.

<sup>19</sup> See also Sean McBride, "The Legality of Weapons of Social Destruction", in C. Swinarski (ed.), *Studies and Essays on International Humanitarian Law and Red Cross Principles in Honour of Jean Pictet*, Martinus Nijhoff, Dordrecht, 1984, p. 406: "Many resolutions adopted by the General Assembly of the United Nations have, either directly or by inference, condemned completely the use, stockpiling, deployment, proliferation and manufacture of nuclear weapons. While such resolutions may have no formal binding effect in themselves, they certainly do represent 'the dictates of public conscience' in the 20th century, and come within the ambit of the 'Martens Clause' prohibition."

<sup>20</sup> Australia, oral statement before the ICJ, p. 57.

“... because of their immense power to cause destruction, death and injury to human beings, the use of nuclear weapons is clearly contrary to the spirit of humanity that gives international law its philosophical foundation.”<sup>21</sup> In contrast, Professor Greenwood argues that this interpretation “... is impracticable since ‘the public conscience’ is too vague a concept to be used as the basis for a separate rule of law and has attracted little support.”<sup>22</sup>

The positions advocated by States in their submissions to the ICJ on the issue of nuclear weapons and the differing opinions the judges gave in response reflect the continuing divide in international law between positive and natural law. States advocating the legality of the use of nuclear weapons argued that in the absence of a prohibitive positive norm of international law, whether conventional or customary, nuclear weapons remain lawful.

By the end of the nineteenth century, concepts of legal positivism and State sovereignty had become dominant in international legal thinking. This led to an extensive codification of the laws of war — the first field of international law to be codified. Positive international law is determined by the contractual will of the State, either through its consent to treaty provisions or through State practice leading to or preventing the development of a customary rule<sup>23</sup>. Through a positivist interpretation of international law, States which do not consent to being bound by treaty norms or to the development of customary rules remain outside the regime governed by those norms: subjugation to a positive norm is dependent on the will of the State. It is therefore consensual law. If that will is absent, the State is not bound by that norm and so is not responsible to the international community for non-observance of it. According to Professor Brownlie, States can “contract out” of the development of a customary rule: “... a State may contract out of custom in the process of formation. Evidence of objection must be clear and there is probably a presumption

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<sup>21</sup> Japan, oral statement before the ICJ, p. 18. This position is similar to arguments submitted by the plaintiffs in the *Shimoda Case*, see Judicial Decisions, “Tokyo District Court, December 7, 1963”, *Japanese Annual of International Law*, vol. 8, Tokyo, 1964, p. 216, where it was argued that if the rules of positive international law did not prohibit the use of nuclear weapons then they were unlawful on the basis of “natural or logical international law” derived from the spirit of those rules.

<sup>22</sup> *Op. cit.* (note 4), p. 28 (para. 129).

<sup>23</sup> According to R. Ago, “Positive Law and International Law”, *American Journal of International Law*, vol. 51, 1957, p. 693, “positive international law is that part of law which is laid down by the tacit and expressed consent of the different states”.

of acceptance which is to be rebutted. Whatever the theoretical underpinnings of the principle, it is well recognised by international tribunals, and in the practice of states.”<sup>24</sup>

In addition to contracting out of the development of a customary rule, the opposition of States most affected by the development of a norm can prevent a norm *de lege ferenda* crystallizing into a norm *de lege lata*. Consequently, the practice of the nuclear States is most important in the development of a customary rule regulating or prohibiting nuclear weapons. In their submission to the ICJ on the legal status of nuclear weapons, the United States argued that “... with respect to the use of nuclear weapons, customs could not be created over the objection of the nuclear States whose interests are most affected”. So not only is positive law dependent on the will of States, it can also be dependent on the will of the States most affected by the developing norm. In the laws of armed conflict, this means that States which possess weapons the rest of the world may wish to be rid of can prevent the development of a prohibition of those weapons. This also means that the strongest military powers have the greatest influence in the development of the laws of armed conflict.

In contrast to positive law, natural law is universal, binding all people and all States. It is therefore a non-consensual law based upon the notion of the prevalence of right and justice. Natural law was to a great extent displaced by the rise of positivist interpretations of international law. According to Schachter, “[i]t had become evident to international lawyers as it had to others that the States that made and applied law were not governed by morality or ‘natural reason’; they acted for reasons of power and interest. It followed that law could only be ascertained and determined through the actual methods used by the States to give effect to their ‘political wills’”.<sup>25</sup> However, the judgment of the Nuremberg Tribunal, which to a great extent relied on natural law to determine the culpability of the Nazi high command, confirmed the continuing validity of natural law as a basis for international law in the twentieth century.

Proponents of the illegality of nuclear weapons emphasized the importance of natural law, urging the ICJ to look beyond the positive norms of international law. The Martens Clause supports this position as it

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<sup>24</sup> See I. Brownlie, *Principles of Public International Law*, 4th ed., Clarendon Press, Oxford, 1990, p. 10.

<sup>25</sup> O. Schachter, *International Law in Theory and Practice*, Martinus Nijhoff, Dordrecht, 1991, p. 36.

indicates that the laws of armed conflict do not simply provide a positive legal code, they also provide a moral code. This ensures that the views of smaller States and individual members of the international community can influence the development of the laws of armed conflict. This body of international law should not reflect the views of the powerful military States alone. It is extremely important that the development of the laws of armed conflict reflect the views of the world community at large.

In addition, the international legal system is distinct from municipal legal systems in that it does not have a central law-making body. International law is decentralized because its development is dependent upon the widespread consensus of States either in the ratification of a treaty or in the development of international customary rules. As a consequence, there can be a significant delay between the formation of moral standards and the development of positive legal norms reflecting those moral standards. Equally, there can be a delay between 'advances' in military technology and the development of normative standards to control or prohibit the use of those military advances. For this reason, positive law can be inefficacious in protecting people from the excesses of armed conflict. It is therefore important to recognize the existence of a moral code as an element of the laws of armed conflict in addition to the positive legal code.

## **Conclusion**

The dominant philosophy of international law is positivist. Obligations to the international community are therefore regulated through a combination of treaty and customary law. With regard to the laws of armed conflict, this has important implications. By refusing to ratify treaties or to consent to the development of corresponding customary norms, the powerful military States can control the content of the laws of armed conflict. Other States are helpless to prohibit certain technology possessed by the powerful military States. They can pass UNGA resolutions indicating disapproval but, in the presence of negative votes and abstentions, these resolutions are not, from a strictly positivist perspective, normative.

The Martens Clause provides a link between positive norms of international law relating to armed conflicts and natural law. One of the reasons for the decline of natural law was that it was wholly subjective. Opposing States claimed the support of contradictory norms of natural law. However, the Martens Clause establishes an objective means of determining natural law: the dictates of the public conscience. This makes the laws of armed conflict much richer, and permits the participation of all States in its development. The powerful military States have constantly opposed

the influence of natural law on the laws of armed conflict even though these same States relied on natural law for the prosecutions at Nuremberg. The ICJ in its Advisory Opinion did not clarify the extent to which the Martens Clause permits notions of natural law to influence the development of the laws of armed conflict. Consequently, its correct interpretation remains unclear. The Opinion has, however, facilitated an important debate on this significant and frequently overlooked clause of the laws of armed conflict.

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## ***International Committee of the Red Cross***

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### **17 December 1996: six Red Cross staff assassinated in Chechnya**

**The unprecedented tragedy that befell the ICRC in Chechnya has underscored the vital importance of security in ensuring the success of any humanitarian operation and has prompted the adoption of measures aimed at affording better protection for ICRC personnel.**

*In its November-December 1996 issue, the Review briefly informed its readers of the murder of six ICRC delegates, shot dead in cold blood by unidentified gunmen in their quarters at the Novye Atagi hospital near Grozny, in the Republic of Chechnya (Russian Federation).*

*This issue of the Review looks back on the tragedy in four articles written by ICRC staff members. In the first two, the Delegate General and the Deputy Delegate General for Eastern Europe and Central Asia remind readers of the facts and describe the anguish felt by the colleagues of the deceased. Two other articles by seasoned delegates discuss the dangerous implications of such attacks for humanitarian aid workers and present the initial conclusions of a debate held on the issue within the ICRC. Indeed, after the Novye Atagi tragedy the ICRC convened a special meeting, which brought together all its heads of delegation, regional delegates and senior operational staff to discuss practical measures aimed at affording better protection for humanitarian personnel, at a time when the hazards faced by its staff in the field are giving increasing cause for concern. The Review is especially grateful to Philippe Comtesse and Frank Schmidt for sharing the conclusions that they themselves drew from the discussions. The views expressed in their articles are not necessarily those of the ICRC.*

*In spite of these tragic events, ICRC delegates are continuing their work in the field. And they will continue carrying out their tasks for as long as victims of war or other forms of violence are in need of their help.*

The Review

**Address at the memorial service held at  
St Peter's Cathedral, Geneva  
20 December 1996**

**Fernanda Calado — Ingeborg Foss — Nancy Malloy —  
Gunnhild Myklebust —  
Sheryl Thayer — Hans Elkerbout**

There were six of them. Six individuals who with their skills, their hands and their hearts brought shelter, care, comfort and a smile to the wounded of the conflict in Chechnya. They came from Norway, Spain, Canada, the Netherlands and New Zealand, all under the banner of the Red Cross. They worked in the ICRC hospital at Novye Atagi. And they are no longer with us. A seventh lies wounded by the bullet which was intended to kill him. The grief of those who witnessed that carnage is felt by us all.

After the shock, the revulsion, the questions, there remains the suffering. Our suffering. The suffering that comes with the loss of loved ones, people who should never have had to die. Not so soon. Not like that. The suffering of their families, of their colleagues and friends, of everyone in the Red Cross and Red Crescent, of all those who surround us in our daily lives. "Even the Red Cross!", they exclaim. Yes, even the Red Cross! The emblem which safeguards humanity in distress, the sign of life and hope, the sign which should protect.

The suffering we feel is also mixed with anger. This was murder - brutal, cruel, implacable, cold-blooded murder. After such a deed, can we still believe in human dignity, the dignity of each and every human being? Should we see man as he is or as we would like him to be? And then, there is the doubt. This piercing doubt. How far should we go in our humanitarian mission? In our medical mission? Where does commitment begin and where does it end? At what point should we give up, and at what price for those we help?

At this cruel time, when we are gathered here to honour the memory of those who are gone, to share our pain and that of their families, let us forget for a moment where we are now. Let us forget the comfort, the security and the joyful approach of Christmas in a city adorned with lights.

Let us imagine instead that we are somewhere in Chechnya. The snow-covered mountains of the Caucasus look down on the plain. The inhabitants of Grozny, the people in the villages and hamlets are trying to rebuild their homes from the rubble, to care for their wounded, to piece together the shattered fragments of their lives. So many shattered lives, Chechen and Russian alike. But everything is lacking. The water mains are damaged, the pumps are out of order, the sewers are overflowing. Disease lies in wait. Medicine is in short supply, expensive or unobtainable. Most of the medical infrastructure is in ruins.

Many cannot afford what little food is available. The old, the most vulnerable go to the Red Cross canteens for a hot meal, then carefully wrap up the piece of bread that will be their dinner.

Families are split up. Many people who fled are afraid to return. Many who remained are afraid to stay.

Children step on mines and are blown to pieces.

Our six colleagues lost their lives although they had come to a hospital to bring the breath of life. Like all ICRC delegates, they believed in a humanitarian ideal. An ideal which means reaching out to our fellow human beings.

A delegate's life brims with enthusiasm. At difficult moments, it is also filled with fear and, beyond fear, with a certain fatalistic acceptance. But not acceptance of crime.

A delegate's life is a fabric woven from courage, from intense joy when humanitarian action brings comfort, from acute pain when what has been done is undone. It is a life of work, of abnegation, of self-control, a life filled sometimes with tension but sometimes too with laughter, friendship and mutual help. It is life as part of a team. For many, it is LIFE in the true sense. Though it may be lived amidst ruins and amongst people at the extremes of deprivation, it is also lived at the heart of the solidarity which unites them.

For us at the ICRC, the death of these six delegates has affected thousands of other lives — those of all our local staff and expatriates from Switzerland and the National Societies, and those of all the victims of the Chechen conflict who are now paying the price of these murders. Yet, far

from leaving us disheartened, this tragic loss must unite us in rejecting the intolerable, the insupportable. It must unite us behind the ICRC to make the institution even stronger in serving the victims of conflict.

This loss must also induce us to reflect. Life cannot simply resume tomorrow as though nothing had happened. There was a time before Novye Atagi and there is a time after. What the future holds we know not, but surely it must be different. The limits of horror have been breached. If we are to be the wiser for this ordeal, we must learn some lessons from it. It is not only the ICRC that has been called into question, but the provision of humanitarian aid anywhere in the world.

The loss we feel here at the ICRC is not ours alone. It is yours, too. It is shared by all of you who are present here today: representatives of States and of humanitarian organizations, journalists, colleagues and friends. Not only because you are here to mourn with us but because, unless you react to it, this loss will deal a severe blow to an ideal shared by all humanity.

React? Yes, but how? By expressing, as we are doing here, your sorrow and your indignation. Humanitarian volunteers are finding themselves more and more often in the firing line. What is this world coming to if, in certain countries, neither the Red Cross nor the Red Crescent can offer their services? If they are reduced to the role of onlookers, standing helplessly by as the evils of conflict continue in secure isolation. What is the world coming to if so many fine words and commitments remain so often without effect? A world in which the silence and inactivity of those capable of taking political action to put an end to violations of humanitarian international law can be so closely akin to compromise. In which the situation is so chaotic that the ICRC can no longer identify or find those who deal in violence in order to establish a dialogue with them. In which humanitarian workers are becoming pawns in the game of politics. In which hopes of peace can be crushed by cowardice.

Let us not delude ourselves. This world is our world. You owe it to our colleagues of Novye Atagi and to all the other humanitarian workers who have lost their lives, you owe it to them — and to yourselves — to react. Again and again and again. To make sure that our world is not the world that will be inherited by our children.

What conclusions can we draw? Words are not enough. Perhaps there is no conclusion. Let our thoughts turn to the families of our colleagues who have died in Chechnya and in Burundi, to our teams of delegates all over the world, and particularly those in Eastern Europe and Central Asia,

who carry on their task even as they grieve. Let our thoughts turn to the civilians of Chechnya — both Russian and Chechen — who have suffered so much; to the wounded and especially those at the Novye Atagi hospital whom we have been forced to leave behind; to the prisoners; to those who are sick, hungry, cold and afraid.

*Marion Harroff-Tavel*  
former Deputy Delegate General  
for Eastern Europe and Central Asia

**17 December 1996**

**Six ICRC delegates assassinated in Chechnya**

In the early hours of 17 December 1996, six delegates of the International Committee of the Red Cross were assassinated in a brutal attack by gunmen at the ICRC hospital in Novye Atagi, near Grozny.

In late summer 1996, the ICRC had decided to open a field hospital in Chechnya because the main hospitals in Grozny had been seriously damaged, thus leaving large numbers of war-wounded without proper care.

Several locations had been considered for the hospital facility. The village of Novye Atagi, some 20 km south of Grozny, was selected because it was largely untouched by the fighting, its inhabitants having managed to remain uninvolved, and there was a compound formerly belonging to a boarding school that could easily be converted into a field hospital.

The hospital equipment was donated by the Norwegian government and the Norwegian Red Cross, and most of the medical staff were seconded by National Societies of Western Europe, Canada and New Zealand. The ICRC assumed overall responsibility for running the facility.

The hospital opened on 2 September 1996. That same day it admitted some 50 patients, all of them war-wounded. By the time the attack occurred on 17 December, the hospital had treated 321 patients; its staff had performed 594 surgical operations and given 1,717 outpatient consultations.

These activities, the sole purpose of which was to relieve the suffering of victims of the conflict in Chechnya, came to an abrupt end in the early hours of 17 December, when masked individuals, armed with guns fitted with silencers, broke into the hospital compound. They burst into the building where the delegates were sleeping and cold-bloodedly shot six of them dead at point-blank range. The victims were:

**Fernanda Calado**, an ICRC nurse of Spanish nationality  
**Ingeborg Foss**, a nurse from the Norwegian Red Cross  
**Nancy Malloy**, a medical administrator from the Canadian Red Cross  
**Gunnhild Myklebust**, a nurse from the Norwegian Red Cross  
**Sheryl Thayer**, a nurse from the New Zealand Red Cross  
**Hans Elkerbout**, a construction technician from the Netherlands Red Cross.

A seventh delegate, Christophe Hensch, was wounded in the shoulder and left for dead.

Within hours of the attack, the ICRC handed over responsibility for the hospital and its patients to the Chechen Ministry of Health. All the staff were evacuated, and Christophe Hensch was flown back to Switzerland on board an ambulance aircraft. The following day the other survivors and the bodies of the six murdered delegates were repatriated on a specially chartered aircraft. Ceremonies fraught with emotion were held before the aircraft's departure and on its arrival, and other ceremonies took place in the victims' home countries. A day of national mourning was declared in Chechnya.

The brutal assassination of its expatriates compelled the ICRC to suspend all operations in Chechnya requiring the presence of delegates. Aid programmes conducted with the help of local partners, such as the Ministry of Health or local committees of the Red Cross, are nevertheless still under way, and are receiving material support from the ICRC and assistance from its locally recruited staff. The ICRC has also suspended some of its activities in the neighbouring autonomous republics of Daghestan and Ingushetia owing to growing insecurity in these regions. On the other hand, the organization has maintained its mission in Nalchik, capital of the autonomous republic of Kabardino-Balkaria, which enables it to monitor developments in the situation in the northern Caucasus.

Following the attack, the Chechen and Russian federal judicial authorities immediately opened an inquiry. Although the ICRC has yet to receive any information on the findings of the investigation, it is clear that the murders were carefully planned. The assassins were familiar with the premises and were equipped with weapons designed for this type of operation. The attack was obviously aimed at the expatriate staff, since the two Chechen interpreters sleeping in the same building as the delegates were spared, and the two guards whom the assailants came across were struck but not killed. There is every indication that the intruders intended to murder all the expatriates at the hospital, but were interrupted in this grisly undertaking when the alarm was sounded.

To date, the ICRC has no knowledge of the identity or motives of either the attackers or those who ordered the killings. No one has claimed responsibility for the murders and it appears likely that no one ever will, since this heinous crime was universally condemned. Under such circumstances, the ICRC can do little more than speculate on the matter, since none of the hypotheses put forward is based on actual evidence.

There is a striking contrast between the horror of the crime, which was premeditated and committed in cold blood, and the countless messages of condolence and solidarity that have poured in from all over the world and from Chechnya in particular.

The ICRC expresses its deepest sympathy to the families of the deceased, who gave their lives for the humanitarian ideal and in the name of solidarity with the victims of the conflict that has ravaged Chechnya. It also offers sincere condolences to the Canadian Red Cross, the Netherlands Red Cross, the Norwegian Red Cross and the New Zealand Red Cross.

The ICRC unreservedly condemns the attack, which struck at the very core of humanitarian action. For the murders were committed within the confines of a hospital that was not only under the protection of the red cross emblem, but whose sole purpose was to provide medical aid to the victims of war.

*François Bugnion*  
Delegate General  
for Eastern Europe and Central Asia

## **The new vulnerability of humanitarian workers: what is the proper response?**

### **An ICRC delegate's view**

#### *Security under threat*

"The security [of humanitarian personnel in the field] is a *political* rather than a technical issue. No rule or protective measure can replace the establishment of a network of contacts among all the parties to a conflict, to convince every one of them of the ICRC's neutrality, impartiality and independence. If those in charge of combatants perceive the ICRC as taking sides, then the organization becomes a potential target. Conversely, neutrality, and above all the combatants' perception of that neutrality, offer the warring parties their best assurance that the ICRC poses no threat to them. The neutral stance of its delegates convinces combatants that the ICRC's humanitarian action has no effect on military operations." This is one of the basic premises of the guidelines on security that the ICRC drew up a few years ago for use in its action in the midst of armed conflict.

Those guidelines are sound: they are sober and moderate, the fruit of years of experience of humanitarian action in conflicts on all continents and at all latitudes. It is hard to imagine a humanitarian institution like the ICRC suddenly changing them, for they strike a simple and realistic balance between good sense and good will.

Yet in the past few months attacks on ICRC representatives have occurred on an unprecedented scale. To cite no more than the most infamous examples, three were killed in an ambush in Burundi in June 1996 and six others — mostly members of National Red Cross Societies — were murdered in their sleep in Chechnya in December. This situation prompts several questions. Are the ICRC's security guidelines still valid in the current circumstances? Are they properly understood and complied

with by those in charge of operations, or are they being eroded as time goes by and as danger becomes a habit, matched by a misplaced faith in some sort of humanitarian immunity? Or, on the other hand, could it be that the circumstances in which emergency humanitarian action takes place have changed to the point that it can no longer be conducted without a gun in one's hand or at risk of one's life? Or can this new vulnerability affecting the humanitarian organizations be explained by the emergence of new forms of banditry, the entry of new and particularly bloodthirsty players on the international scene, the anarchy that is gaining ground in various regions of the world, the cynicism of leaders and the breakdown of discipline in armed groups?

Admittedly, the ICRC and other components of the International Red Cross and Red Crescent Movement are not harder hit by this wave of attacks, killings and hostage-taking incidents than any other humanitarian organization, whether private or part of the United Nations system. But whether we admit it or not, the Movement in general (and the ICRC in particular) used to believe it enjoyed a greater degree of protection from the effects of warfare than other organizations, on account of its longstanding tradition, working principles, independence, impartiality and expertise; and because of the universal significance of the red cross emblem and the organization's first-hand and uninterrupted experience of warfare. That idea is now in ruins. It was a pipe-dream that failed to withstand the test of events. We must now recognize that all humanitarian organizations are equally vulnerable.

### *The nature of present-day conflicts*

There is no shortage of explanations for this new vulnerability. The one usually given, because it is the most obvious and in some measure the most spectacular, is the emergence of new and generally disorganized armed groups which appear to be singularly unaware of the very idea of respect for humanitarian action. Conventional wisdom usually places them in Africa and likes to describe them as fearing neither God nor man, and being largely made up of very young, undisciplined and bloodthirsty fighters who are often on drugs, have no objectives or principles, and indulge in orgies of looting, rape and murder. The Western imagination, whetted by sensational reports and century-old obsessions, laps up these "new barbarians". At a time when the comfortable certainties of a bipolar view of the world no longer mask the diversity of causes underlying armed conflict, these groups have aroused considerable interest and, for want of any other explanation, are attributed unwarranted importance. It would of course be wrong to pretend that they do not exist or to ignore the risks

that their unpredictable behaviour causes for humanitarian workers, let alone the suffering they inflict on the population of the regions where they operate. But it would also be wrong to generalize about a phenomenon which, when all is said and done, is still confined to a few specific regions and is nothing new. The armed groups in Afghanistan have little in common with those in Liberia; the recent genocide in Rwanda followed a pattern peculiar to the Great Lakes region of Africa and tells us nothing about the course of the conflict in the former Yugoslavia or the behaviour of armed groups operating in Chechnya, Myanmar or Sudan. Lumping them together in a special category of "new players in conflicts", with wanton but deliberate use of unbridled violence as their common denominator, would mean rejecting them out of hand, considering any dealings with them as unseemly, and, in a word, would make humanitarian action impossible in vast regions of the world.

The humanitarian organizations have to protect their staff against the banditry which generally accompanies situations of armed conflict, whatever its origin. To do so they must not only take the necessary technical protective measures, but also seek to establish a dialogue with all the armed groups present, without prejudice and whatever the objectives — or lack of them — ascribed to such groups. It is only when, in a given context, experience eventually shows such dialogue to be impossible that the dilemma arises as to whether operations should be suspended and humanitarian workers withdrawn.

The same applies by extension to the situations of complete anarchy, which by a strange reticence have come to be known as "unstructured" conflicts. World history offers myriad examples of such situations, each of which is one of a kind. One of the particularities of recent developments is that we in the wealthy countries have the impression that the periods of chaos which have always punctuated war and revolution, and which rarely lasted more than a few days or weeks, are now dragging on for so long in certain regions that they are becoming a new form of normality, a lawless normality in which humanitarian workers no longer have a place. Here Somalia and Liberia come to mind. However, that view is misleading. It is not so much a description of reality as an indication of the difficulty foreigners have in grasping the complex way in which societies in crisis function, once the breakdown of authority has reached a certain threshold (we used to speak of "Balkanization"; more recently the term has been "Lebanization"). Obviously, the proliferation of warring parties does increase risks. It changes neither their nature nor their intensity but simply makes them more diverse. The more a conflict becomes fragmented, the more vital it is for humanitarian workers to display subtlety

and empathy, courage and modesty, probity and flexibility. Here again, like any other organization concerned exclusively with the immediate fate of victims, the ICRC has no possible course other than dialogue and open-mindedness.

Another theory often advanced to explain the increased vulnerability of the humanitarian organizations is that it arises from a change in the underlying nature of armed conflict; that the organizations, basking in outdated certainties and incapable of adapting, are now paying the price for their own short-sightedness. It is claimed that armed conflicts have lost both their ideological nature and their strategic significance since the Cold War ended in the early 1990s and, as a result, are no longer subject to any constraints. Now, the argument goes, they are fought for ethnic or cultural reasons. They are said to be closely bound up with the subjective affirmation of collective identity that is seen as promoting exclusion, the aim being to eliminate totally rather than to conquer the adversary, combatants and civilians alike. It is no longer a matter of neutralizing the enemy, as the military used to say, but of annihilating entire peoples. In these circumstances humanitarian action, which by definition seeks to ensure respect for the adversary — and therefore at least his survival — inevitably clashes head on with the explicit designs of the belligerents. A humanitarian agency then faces an impossible choice: rising up courageously against *their objectives* at the risk of being driven promptly from the field, or giving up *its own mission* in a sort of guilty compromise, thus running the risk of no longer serving any purpose and standing by as a helpless witness of massacres, forced population displacements, large-scale and unjustifiable destruction of property, torture and extermination. In either case the failure would be total and painful, and the service to war victims practically nil. The contradiction would be insurmountable. The civilian and military authorities in that sort of conflict would soon size things up and, if necessary, would have no scruples about using their weapons against humanitarian staff seen as inconvenient witnesses to their sinister handiwork. That, it is claimed, is how the conflicts of the future will unfold: humanitarian action is lost; it belongs to a past in which order and decency prevailed, and within the next few decades will vanish for ever, swept away in the blood of those still naive enough to devote their lives to it.

Even if that apocalyptic picture is somewhat of a caricature, it contains enough half-truths to have convinced some and has given rise to a certain amount of discussion. The argument is, however, a pernicious one: first because all wars, regardless of the ideological framework with which they have been associated, have always to a greater or lesser degree comprised

an affirmation of group identity (national, ethnic, racial, religious, ideological, cultural, linguistic, social, clan-based, etc.) and rejection of the adversary — and disregarding that fact now is to make light of the sufferings of the countless victims of past wars and genocide; second, because it is simply a generalization based on a few recent cases in which ethnic violence has reached extreme proportions (we are not trying to minimize their effect), and it forces humanitarian action into a narrow choice between *denunciation* and *compromise*, which is both sterile and condemnatory. The challenge of humanitarian action in the field lies precisely in recognizing that human beings, today as in the past, are capable of the worst atrocities, about which we must remain pitilessly lucid, and in doing all we can in the direst moments to remind men that they are also capable, with the same intensity, of compassion, generosity and respect — in a word, of humanity. Decreeing that humanitarian action is obsolete on the grounds that it is all too badly needed on some occasions would be like renouncing medicine because the hospitals are full.

It is nonetheless a fact that in such situations where life seems so cheap, the risks for humanitarian workers are high. Here again, however, the humanitarian organizations' only weapon is dialogue. For the sake of humanity, all their efforts must focus on refining that dialogue.

### *The internal management of humanitarian organizations*

If the nature of today's major conflicts cannot really be said to be new, if the protagonists in such conflicts are merely a modern version of a species known since time immemorial, if the aims of war today are no different from those of wars of the past, and if none of the characteristics attributed to present-day conflicts suffices to explain the deterioration in the conditions in which humanitarian action takes place, how can we account for this new vulnerability?

In plain terms, if the cause is not external, could it lie within? Could the humanitarian organizations be making more mistakes today than in the fairly recent past? Have they become lax, or are they taking more risks? Could their management be at fault?

It would of course be unreasonable to rule out, without detailed analysis, the possibility that internal factors are to blame, not only out of deference to the memory of those who have lost their lives in the course of their duties but also out of an ordinary sense of responsibility vis-à-vis those now working in dangerous regions. However, that explanation does not hold water any more than the previous one. Everyone recognizes, of course, that fatal errors can sometimes be committed by the top officials

of a humanitarian organization in the field or at headquarters, and the organizations certainly do all in their power to avoid such mistakes. But an error committed by an individual does not constitute a trend, and is not enough to explain the current deterioration. Indeed, were it possible to trace security incidents back to certain individuals, it would be surprising if all the humanitarian organizations were to suffer from the same phenomenon at the same time.

### *The global environment*

In fact, the factors that have wrought the greatest changes in the working conditions of humanitarian organizations over the past few years are not so much the realities on the ground as political and media manoeuvring in the world's major capitals. Curiously enough, humanitarian activities are being made more dangerous by such factors as the popularity of humanitarian operations among the general public in the developed countries, the increasing interest taken by States in humanitarian action, the growing involvement of the United Nations and other international organizations in efforts to restore peace in regions affected by conflict, and the proliferation of humanitarian agencies.

The number of humanitarian players is, indeed, steadily rising. In the past quarter-century the traditional organizations (UN agencies, major non-governmental organizations and the Red Cross) have been joined by a multitude of smaller organizations, often specializing in a particular sphere of activity (aid to children, orthopaedics, etc.) or region of the world. Some of them, born of a burst of altruism sparked by the media, only last long enough to carry out a few sporadic operations. Others, in contact with reality in the field, gradually start to make headway. Such organizations are not necessarily impartial in any given conflict: why should they be? Each pursues its own objectives and develops the operational methods it deems appropriate, even if they sometimes differ widely; there is nothing wrong with that. Clearly, however, the warring parties — particularly when many small factions are involved — are neither interested in nor able to appreciate that diversity. They see the humanitarian players as a somewhat indistinct whole: if one organization offends them, all are incriminated. The security of all the organizations depends on the security of each one.

Most important of all, the central fact in this new vulnerability is definitely of a political nature and must be coldly recognized as such. Humanitarian action (at least of the sort we are discussing here) is a Western notion and, whether we like it or not, purveys a world view

imbued with Christian morality and individualism and placing a premium on suffering and compassion. Virtually all the major humanitarian organizations have their roots in the Western countries or their closest allies. Moreover, they share their ideological and political origins with the cultural system which gave birth to the United Nations Organization and still dominate it. And they can only operate as long as they have financial support from the Western States and public.

It is therefore hardly surprising that the disintegration of the USSR, which deprived the Western powers of a common adversary around which their foreign policy was organized, should have led them to take a greater interest in humanitarian action — already familiar ground to them — to the point of making it a central feature in explaining that policy to domestic public opinion. A lot has been said about this substitution of humanitarian activities for political action, particularly in connection with Europe's attitude to the crisis in the former Yugoslavia, and there is no need to revert to the matter here. More important are the consequences of that attitude and the way it has resulted in a sharp increase in government pressure on the humanitarian organizations.

In simple terms, the trend is no longer for governments merely to agree or refuse to finance this or that project devised by a humanitarian organization, but to incorporate it in their overall policy towards the country concerned. In extreme cases a State, forced to react to a crisis and perhaps wrong-footed by an emotional reaction from public opinion, may announce that its foreign policy in that particular case will be largely humanitarian. Quite legitimately, however, it sets out to define that policy in terms of its own interests, whether they be strategic, economic, political, military or commercial. From the plethora of projects of all kinds in search of funding, it selects those which best serve its political objectives. And, without false shame, it uses the power conferred upon it by the size of its contribution to the budgets of the major humanitarian organizations to try to influence them, shape their priorities and play a part in defining their objectives; in short, it tries to turn them into objective agents of its own policy. Some organizations are better than others at resisting this political interference in humanitarian action, though none can claim to escape it entirely.

At the same time — and this is another expression of the same trend — direct United Nations involvement in theatres of conflict has expanded. There is an ever-growing number of peace-keeping or peace-making operations for which, quite naturally, the international community has adopted a comprehensive approach combining parallel military, humani-

tarian and political-diplomatic components. Increasingly, soldiers of the international cause, serving largely as guarantors of political processes initiated in New York and as living proof of the importance attached to those processes, have found themselves responsible for protecting civilians and installations essential to their survival or for securing access routes, and then for guaranteeing the security of humanitarian agencies and the delivery of relief across front lines, and even in some cases for actually distributing relief supplies. Indeed, in some conflicts humanitarian assistance has become increasingly reliant on military logistics and, what is more, has largely merged into a political panorama defined far from the conflict itself.

The term *humanitarian* has become infinitely elastic: a massacre or the mass exodus of a threatened population is known as a “humanitarian crisis”; the dispatch of troops to break up fighting between rebel factions is termed “humanitarian intervention”; while violations of international humanitarian law or human rights are “humanitarian setbacks”. Gradually, we are coming to accept that the only successful outcome of humanitarian action — and therefore its goal — is the establishment of peace. This is not simply a semantic drift but a profound political change: nowadays humanitarian action is not allowed to confine itself to providing immediate and non-political assistance for war victims but is obliged, in the name of moral precepts shared for cultural reasons, to act as an instrument for promoting peace. And peace, by definition, is political. It is made up of compromise, calculated self-interest, military realities, weariness and hope. Yet there can be no doubt that the security of humanitarian workers depends on the non-political nature of their action.

### *By way of a conclusion*

The present global political and media environment is tending to limit the autonomy of the humanitarian organizations (to the detriment of their independence), to steer their efforts towards certain spheres of activity or certain zones (with no regard for the principle of impartiality), and to assign them a leading role in settling conflicts (thus jeopardizing their neutrality). So three of the main principles of Red Cross action are now under threat. But those principles, over and above their moral value, have a practical and essentially operational function.

The ICRC’s security guidelines mentioned at the beginning of this article said it all: the security of humanitarian personnel depends on the combatants’ perception of the neutrality, impartiality and independence of humanitarian action. To be specific, if a combatant sees a humanitarian

organization (or its staff) as a threat, a tool of the adversary, or a means of political interference in the development of the conflict; if he identifies it as part of a world plot against him or the cause he is defending, or simply as a symbol of what he is fighting, he will try to eliminate it. For such is the logic of warfare.

In other words, the greater the effort to assign to humanitarian action in conflict situations any aims apart from providing immediate, unconditional and impartial protection and assistance to those who need it, regardless of any other consideration whatsoever, the greater the danger to humanitarian workers.

The principal cause of the new vulnerability of humanitarian staff lies in that insidious drift towards the politicization of humanitarian action.

So what is to be done? The answer is simple: humanitarian action must again be separated, by a more impermeable barrier than ever before, from political action. It is for the political authorities to try to settle the conflicts of all sorts now raging around the world. They have all the necessary diplomatic, military and economic means for doing so. For their part, the humanitarian organizations mandated to operate in conflict zones will do their utmost to relieve the suffering caused by those conflicts, without becoming entangled in politics. Even if it seems simplistic, this return to a clear separation of roles is inevitable. The present amalgam of politics and humanitarian action carries within it the seeds of its own failure: by adding political dangers to the dangers inherent in humanitarian operations carried out in present-day conflicts, it makes humanitarian action impossible where it is most needed. Then, when the humanitarian agencies withdraw from zones which have become impracticable, the sponsors of that policy will lose the very foundations underpinning their strategy.

*Philippe Comtesse*  
ICRC Regional Delegate in Buenos Aires

## **Recommendations for improving the security of humanitarian workers**

The meeting of heads of delegation and regional delegates held in Glion from 19 to 22 January 1997 was a milestone in the recent history of the ICRC. Its aim was to mobilize senior operational staff around security issues in situations where humanitarian operations are undertaken. The recent tragic events affecting the ICRC (the assassination of ten staff members in Burundi, Chechnya and Cambodia) and the murder of three members of *Médecins du monde* as well as four United Nations human rights monitors in Rwanda, have highlighted the need to reassess security and humanitarian action on behalf of conflict victims.

Those who attended the meeting unanimously acknowledged that the ICRC's mission — to bring protection and assistance to conflict victims — must be pursued, but they also recognized that, with regard to the security conditions under which this mission is being carried out in some parts of the world, certain limits had been reached and, in some cases, exceeded.

The participants began by drawing up a list of external factors which pose a security risk for humanitarian action as a whole and for the ICRC in particular. These were:

- the emergence of new protagonists and armed groups and the difficulty of grasping the complexity of the situation in conflicts marked by general anarchy;
- humanitarian action is sometimes identified with Western values or even a specific ideology and is being increasingly manipulated (displacement of civilian populations), resisted (ethnic conflicts), or simply disregarded by the belligerents;
- the increase in crime and banditry, sometimes fostered by the material wealth which the humanitarian organizations display;

- the perception of humanitarian aid is blurred by competition among its providers, the intervention of peace-keeping forces, the dual political and humanitarian agendas of States funding assistance, and excessive media exposure, which leads to indifference, confusion about specific roles, and challenging of the independence and neutrality of humanitarian action;
- the red cross emblem, perceived as a Western, Christian symbol, which means that the ICRC may become a target both because of its presence and activities, and because of the emblem's symbolic dimension;
- the confusion about specific mandates and the diversity of operational approaches among the different components of the International Red Cross and Red Crescent Movement also represent a risk factor.

At the internal level, too, a thorough appraisal was made. The matters addressed were as diverse as the coherence of the ICRC's message, the image it projects, the management of human resources, the capacity to assess situations and foresee developments, the training of its staff, the degree to which the available resources match the objectives pursued, and the practical application of security measures.

The participants in the Glion meeting drew up a number of recommendations regarding both the development of practical and technical security measures and the adaptation of the ICRC's operational methods to new contexts. Some of the recommendations can be put into practice quite quickly, while others require more in-depth analysis and consultations in the months to come. The proposals put forward may be classified as follows:

#### *Operational policy*

- To extend the ICRC's capacity for action through local partners, through improved working methods, and by diversifying networks of contacts so as to increase the acceptability of humanitarian activities.
- It is essential that the operational delegations enhance their capacity for political, social and economic analysis so as to adapt the intervention criteria to the new types of armed conflict. Assessments of needs must be improved and impact studies must be carried out regularly.
- To work for more concerted action on the part of humanitarian agencies in order to combat the adverse effects of competition among them, while safeguarding the specific nature of the ICRC's mission.

- To secure clarification of the respective mandates of the different components of the International Red Cross and Red Crescent Movement, reaffirming the specific competence of the ICRC to take action on behalf of all victims of war.

#### *Practical security measures*

- The ICRC must take a firm stance with the competent authorities when security incidents occur and insist that such incidents be clarified on both internal and external levels; when ICRC delegates are the target of criminal acts, the matter must be referred to the competent courts.
- In situations where the ICRC becomes a target, its heads of delegation are empowered to decide, on the basis of an assessment of the risks involved, whether an operation can be continued or should be suspended, or whether certain regions should no longer be covered.
- Where it is necessary, especially to shield themselves from criminal activity, delegations may resort to the use of armed guards to protect staff in their places of residence and work, giving preference to officially recognized local security firms. Armed escorts may not be used, however, to protect humanitarian activities carried out by the delegation.
- A number of delegates should receive special training in security matters and be placed, on a temporary or a permanent basis, at the disposal of delegations needing such expertise.
- The security and stress-management unit at ICRC headquarters will be strengthened so that it can provide better support, listen more attentively to individual concerns and ensure a more efficient exchange of information between headquarters and the field.

#### *Human resources*

- A multicultural approach must be developed with regard to recruitment, training and assignment of field staff.
- The skills of local employees and of the staff of National Societies with which the ICRC cooperates must be enhanced.
- The training and integration of delegates and local staff must be strengthened through improved integration courses and working sessions, the establishment of regional training centres, in-service training in the field, better management of contracts and assignments and

upgrading of the role of field coordinators and heads of sub-delegations.

- Heads of operational delegations must be relieved of day-to-day management tasks in order to have more time at their disposal for strategic work and be better able to listen and analyse. The tasks involved in running a delegation should be redefined and reallocated among its top management.

### *Image and communication*

- Delegations must be free to use the ICRC logo in a flexible manner and in accordance with the circumstances (acceptability of the institution and security conditions).
- The ongoing study on a new emblem, universally recognized as neutral, should be continued.
- The ICRC must devise messages and a communication policy that will not be perceived as moralizing.

In the weeks following the Glion meeting, the Department of Operations and the Executive Board of the ICRC set about implementing some of these recommendations, particularly with respect to strengthening practical security measures and arrangements. A meeting with the main participating National Societies and the International Federation of Red Cross and Red Crescent Societies, devoted for the most part to security issues, took place in mid-March, and a wider effort to mobilize the main humanitarian organizations and the international community is being planned. Other recommendations will be examined and debated in various forums of the Movement, and in a wide-ranging prospective study currently being carried out within the ICRC. It is evident that the tragic events of 1996 and the ensuing Glion meeting have set in motion a process which will have a profound effect on the nature and *modus operandi* of the ICRC in the twenty-first century.

*Frank Schmidt*  
ICRC Department of Operations

## ICRC action during the Second World War

*Following allegations that appeared in the press last summer, calling into question the actions of some of its delegates during the Second World War, the ICRC resolved to shed full light on that period in its history. The allegations were based on a number of reports by agents of the US Office of Strategic Services (OSS), the predecessor of today's CIA, and suggested that ICRC delegates had been involved in activities that were inconsistent with the organization's humanitarian mandate.*

*Having made a thorough search of its own archives and those of the Swiss Confederation, the ICRC can now firmly state that, among the 49 people whose names are quoted in the OSS documents, only 18 worked for the organization, and only three of those appear to have committed reprehensible acts. The first was involved in illicit currency dealings, while the other two were found guilty of espionage, apparently motivated by personal gain. Only in the first case were the dealings conducted while the person was in the service of the ICRC; the affair ended with his resignation following an internal investigation. In the other two cases, the activities in question took place either before or after the people concerned were employed by the ICRC. All the other allegations stemmed from obvious misunderstanding of the ICRC's mandate and working procedures.*

*In view of the facts that have now come to light, it appears evident that during the Second World War only a small number of individuals fell prey to influences contrary to the humanitarian ideal.*

*The text that follows is an updated version of a report by François Bugnion on the current state of investigations undertaken by the ICRC.<sup>1</sup>*

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<sup>1</sup> The initial version was published in *IRRC*, No. 314, September-October 1996, pp. 562-567.

## **The International Committee of the Red Cross infiltrated by the Nazis?**

### **Update**

Last summer the press published extensive extracts of documents kept in the files of the OSS or Office of Strategic Services (the US intelligence service at the time and predecessor of today's CIA), calling into question the actions of delegates who were working for the International Committee of the Red Cross (ICRC) during the Second World War.

Two kinds of allegation were made:

- protection of German assets and illicit dealings in funds or valuables stolen from victims of Nazi persecution;
- espionage, or even infiltration of the ICRC by agents of Nazi Germany.

The ICRC took these allegations very seriously and immediately started an investigation in order to shed light on them.

Research was conducted in the archives of the ICRC and of the Swiss Federal Political Department (now the Federal Department of Foreign Affairs), and in the files of the Swiss Public Prosecutor's Office.

Steps were also taken to obtain access to the files on former ICRC delegates kept by the French military legal authorities.

There has not yet been enough time to examine all the documents available or to reach any definitive conclusions; on the other hand, we can now add further details to the paper issued by the ICRC on 15 September 1996 and published in the *International Review of the Red Cross* (No. 314, September-October 1996, pp. 562-567).

### **I. Protection of German assets and illicit dealings in looted funds or valuables**

The US documents and research in the archives of the ICRC and the Swiss Confederation show that a former ICRC delegate named Giuseppe Giovanni Beretta was accused of illicit dealings by the Turkish police.

Giuseppe Beretta, a Swiss national from Lugano, was born on 27 October 1900. He emigrated to the US in 1922 and returned to Switzerland via Mexico in 1938. At this stage we have no information on his life during

those years. The files of the Swiss Public Prosecutor's Office describe him as a tradesman.

On 9 June 1939 Beretta arrived in Zurich, where he stayed until 28 April 1942. During that period he was implicated in two dubious affairs: one involving a notary from Ticino in 1941, and the second relating to false affidavits, for which he was indicted in Zurich a year later.

In connection with the second case Beretta was kept in custody from 27 February to 18 March 1942. The charges against him were subsequently dropped.

In spite of his record — of which the ICRC was clearly unaware — Beretta joined the ICRC on 10 February 1943. There are no details in his personal file of the circumstances of his recruitment. After Beretta had been dismissed, another delegate called Raymond Courvoisier said that his former colleague had been “protected by a friend”.

The agreement between the ICRC and Giuseppe Beretta specified *inter alia* that “Mr Giuseppe Beretta hereby undertakes:

- (a) to follow to the letter the instructions that have been or will be given to him by the International Committee of the Red Cross;
- (b) [...] to observe the strictest neutrality in both word and deed: to refrain from any acts of a political or religious character and from any activity of a commercial nature, and to bear in mind at all times that he represents the International Committee of the Red Cross”.

On 15 February 1943 Beretta left Geneva for Izmir, Turkey, where he arrived on 15 March, after a journey that took him to Budapest, Bucharest, Sofia, Istanbul and Ankara. In Izmir he was put in charge of organizing food supplies for the inhabitants of the Greek Aegean Islands, who were then suffering from a terrible famine. He served as deputy to delegate Raymond Courvoisier, who was based in Ankara.

In August 1943 Beretta was transferred to Istanbul, where his task was to arrange for the transit of relief supplies for Italian prisoners of war in India.

On 12 July 1944 he received news of his mother's death and decided to return to Switzerland, arriving there on 15 July. He left again for Turkey with Raymond Courvoisier on 16 August, but the two men were stranded in Bucharest when the city was taken by the Red Army. Having spent five or six weeks in the Romanian capital, Beretta finally arrived back in Istanbul in late September. While continuing to forward relief supplies for

Italian prisoners in India, he also took on the task of assisting German nationals interned in Turkey following the break-off of diplomatic relations between the two countries.

In a letter dated 12 December 1944 to Etienne Lardy, the Swiss Minister in Ankara, Professor Herbert Melzig, a stateless person of German origin teaching at the University of Istanbul, denounced two Swiss nationals, Giuseppe Beretta and Richard Gross, who, he said, had helped Max Willy Goetz, a citizen of the Reich living in Turkey under cover of a Hungarian passport but in fact working for the Gestapo, to transport gold and foreign currency from Hungary to Turkey. The gold, he maintained, had been deposited in a safe rented in Beretta's name at the Deutsche Orient Bank in the Galata district of Istanbul. Goetz had then reportedly been expelled to Syria. Professor Melzig stated his intention to inform the Turkish authorities of those dealings.

Professor Melzig's letter reached Etienne Lardy on 18 December 1944. In a confidential telegram to the Swiss Federal Political Department dated 22 December, Lardy summarized the denunciation concerning Giuseppe Beretta, adding that he had just learned "from another source" that Beretta was said to have smuggled a million Romanian lei into Switzerland and then to have had one of his relatives sell them to the ICRC. Moreover, on returning to Turkey, Beretta had reportedly wanted to take with him a large quantity of gold withdrawn from a Swiss bank, but at the very last moment had been persuaded otherwise by a third party. Beretta was also said to have sent gold to Romania in a suitcase with ICRC markings. Minister Lardy suggested that the Federal Political Department inform the ICRC of those allegations, recommending that Giuseppe Beretta be recalled to Switzerland if an emergency investigation should confirm all or part of the facts. He also advised the Department to open all ICRC correspondence arriving in Bern via his legation, as such mail was not checked by his chancellery.

In a letter dated 28 December 1944 and handed over to Frédéric SiorDET, Chairman of the ICRC Delegations Commission, the Federal Political Department informed the ICRC of the contents of the telegram it had received from Minister Lardy.

On 4 January 1945, Beretta received the following cable from the ICRC, ordering him to return to Switzerland at once: "Request you to return to Geneva immediately and make your report — stop — please cable scheduled date of departure and proposed itinerary".

Having received no reply from its delegate, the ICRC sent another message on 10 January.

In a telegram dated 14 January, Beretta informed the ICRC that he intended to leave Ankara for Cairo on 23 January.

The Turkish police pre-empted Beretta's plans, however. Here Beretta's account differs from the version of events given by other sources. Be that as it may, the police conducted a search of his home on 19 January or thereabouts.

As a result, Beretta handed over to the police the 710 gold coins deposited in the safe rented in his name at the Deutsche Orient Bank.

Richard Gross and several of the bank's employees were arrested on Saturday 20 January.

Having obtained permission to leave Turkey, Beretta returned to Ankara on 26 January. The following day he flew to Cairo and then continued on his way to Switzerland, where he arrived on 9 February.

At a meeting attended by Frédéric Siordet and Henri Fauconnier, Director of the Delegations Division, Beretta was informed of the charges against him. He tendered his resignation to the ICRC in writing on 13 February, protesting his innocence and requesting a full investigation of his case. His letter is drafted in terms suggesting that he acted on his own initiative and requested "the International Committee of the Red Cross to accept his resignation from his position as delegate".

On the other hand, in letters dated 13 and 15 March 1945 to Minister Walter Stucki, head of the Federal Political Department's Foreign Affairs Division, Giuseppe Beretta complained that he had been dismissed by the ICRC. That same word is used by the ICRC in other documents. It may therefore be concluded that Beretta was ordered to resign.

Moreover, on 24 January, Jean Pictet, Director-Delegate of the ICRC, had informed Edouard de Haller, Swiss Federal Council Delegate for international aid, that Beretta was on his way back to Geneva and that he would be relieved of his duties "whatever the outcome of the ongoing investigation. The Committee considers it preferable not to keep him in its service, also on account of matters dating back to the time when he was living in Switzerland".

The ICRC had thus learned of Beretta's past history. On 2 February, the federal police authority responsible for aliens residing in Switzerland declared that Beretta was wanted for questioning and tapped his telephone the moment he returned to Switzerland.

Notwithstanding Beretta's resignation, the ICRC organized a meeting on 14 February, bringing Beretta face to face with Frédéric Siordet, Henri

Fauconnet, Hector Bachmann, Director of the Finance Division, and Théodore Schmidlin of the Federal Political Department's Legal Service.

In the course of the meeting, Beretta admitted to having kept 710 gold coins in a safe-deposit box, but maintained that he had agreed to hold the coins only as a favour to a Hungarian friend by the name of Willy Goetz-Wilmos, a journalist living in Turkey who feared that war would break out between Turkey and Hungary and that his assets would be confiscated. Beretta asserted that the deposit was in no way the product of unlawful trading and that he had readily handed the coins over to the police in exchange for a receipt; there had been no police procedure of any kind, and in particular no search of his home or confrontation. He also maintained that there were no restrictions on gold trading in Turkey.

Beretta categorically denied the other accusations levelled against him and declared that he was the victim of attempted blackmail on the part of Professor Melzig. As regards the alleged transfer of one million lei, Hector Bachmann stated that there was no record of the transaction in the ICRC's accounts.

The minutes of the meeting were signed by each of the participants, who undertook to keep the matter confidential.

The following day, i.e. 15 February, Frédéric Sordet wrote to Edouard de Haller, informing him of the outcome of the meeting. He ended by saying: "Mr B.'s denials are plausible, and have been set down in writing. We must therefore give credence to his statements until further information is available". However, wishing to establish the facts of the matter, Frédéric Sordet asked the Federal Political Department to entrust Minister Lardy with the task of clarifying the following points:

1. Was trading in gold unrestricted in Turkey at the time of the events?
2. Was a search conducted at Beretta's home?
3. Was there a written record of the meeting during which Beretta handed over the coins he was holding?

In a telegram dated 20 February, the Federal Political Department instructed Minister Lardy to investigate those matters.

Frédéric Sordet wrote to Beretta on 22 February 1945 confirming that the ICRC had accepted his resignation. The organization had taken note that the former delegate formally denied the accusations brought against him, but pointed out that agreeing to hold gold in trust was in itself highly imprudent and could even be construed as professional misdemeanour.

On 26 February Johann Martig, the Swiss Consul in Istanbul, accompanied by Daniel Henri Gagnebin, Attaché at the Swiss Legation, went to see Demir Bey, the Director-General of the Criminal Branch of the Istanbul police, who confirmed that a search had indeed been conducted at Beretta's home and that an investigation was being carried out in relation to the following charges:

1. currency smuggling;
2. export of currency;
3. espionage.

Demir Bey considered "Beretta to be the gang leader" and promised to keep the Swiss Consulate abreast of the results of the investigation.

A letter dated 12 March 1945 (Annex 1) from G. K. Komaktz, Counsellor at the Turkish Legation in Bern, informed the ICRC that Beretta, together with several Turkish and other foreign nationals, were "suspected of contravening the provisions of the law pertaining to the protection of Turkish currency and of importing certain goods without declaring them to customs". The letter makes no mention of the accusation of espionage.

In two long letters dated 13 and 15 March to Walter Stucki, head of the Federal Political Department's Foreign Affairs Division, in which he expresses his discontent about the circumstances of his dismissal from the ICRC, after being subjected to "interrogation by Mr Schmidlin of the FDP in the presence of Mr Siordet, Mr Fauconnet and Mr Bachmann from and at the ICRC", Beretta complained that he had been slandered and issued a torrent of accusations not only against Raymond Courvoisier, but also against several members of the Swiss Legation in Ankara.

Colonel Brigadier Roger Masson, head of Swiss Army Intelligence, intervened on Beretta's behalf in a note dated 23 March 1945, requesting the ICRC to treat the case with "benevolent understanding".

Richard Gross was released on 3 May 1945.

On 8 May Johann Martig and Daniel Gagnebin had a second meeting with Demir Bey. The Swiss Consul's report following the interview stated that the charges levelled against Gross and Beretta were "now limited to illicit currency dealings and smuggling, offences of which Gross and Beretta are equally accused". The Consul added: "When I enquired whether charges of espionage had been brought against the two aforementioned persons as a result of the police investigation, Demir Bey answered in the negative, as the inquiries made in that connection had not yielded any results".

In a letter dated 4 June 1945, Minister Lardy replied to the accusations that Beretta had directed against him and his staff.

Raymond Courvoisier had meanwhile returned to Switzerland, where he was informed on 3 July that since active hostilities were over in Europe the ICRC “found itself compelled to part with a number of its staff members”, among them Courvoisier himself. As the result of an interview with Secretary-General Jean Duchosal, he was offered the post of deputy delegate to the French Armed Forces in Germany. Considering that the proposal was not commensurate with his experience or the services that he had rendered to the institution, Courvoisier resigned from the ICRC on 17 August 1945.

On 30 August, Courvoisier submitted a lengthy aide-mémoire to the ICRC, recounting the whole affair and reiterating his previous accusations against Beretta. The document takes up and expands on the accusations levelled against Beretta by the “other source” to whom Minister Lardy had referred in his telegram of 22 December 1944, leading one to believe that the Minister’s informers were Professor Melzig and Raymond Courvoisier, who was Beretta’s colleague at the time.

On 13 October 1947 Judge Kemal Bilgin gave his verdict in the proceedings brought against Dimitri Nikolaydis, Riche (*sic*) Gross, Hiristo Evangelo and Istefan Ivanco Evangelo “on the charge of contravening the provisions of the law pertaining to the protection of Turkish currency”. Richard Gross and Hiristo Evangelo were sentenced to three months’ imprisonment and a fine of 1,000 Turkish lira, less the time spent in custody awaiting trial, i.e., one day short of three months. The other two defendants were acquitted. No charge was made against Beretta, who was mentioned only once — under the wrongly spelt name of “Dretta” — as having received payment of 3,000 US dollars from one Billi Gütz (*sic*).

To the best of our knowledge, Beretta was neither charged nor convicted in Switzerland or in Turkey in connection with these events, nor is there any mention of a conviction in the ICRC’s files or in the archives of the Swiss Public Prosecutor’s Office.

Giuseppe Beretta died in Viganello, Switzerland, on 11 October 1956.

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Although it has not been possible to elucidate all aspects of this extremely regrettable affair, a number of conclusions may be drawn:

1. All the evidence available indicates that the Beretta case was a dubious affair in which the primary motive was personal gain. In spite of his relations with Willy Goetz, nothing suggests that Beretta might have been a German agent or that his sympathies lay with Nazi Germany.
2. Nothing in the files consulted indicates that Beretta might have acted in collusion with someone within the ICRC. His associates, whose names appear regularly in the files, did not belong to the ICRC, and nothing can be deduced from Raymond Courvoisier's allegation that Beretta was recruited under protection from a friend. Indeed, Courvoisier gives no hint of the identity of this friend, who may not have been an ICRC staff member. In addition, Courvoisier's allegation was made after Beretta had tendered his resignation.
3. At the present stage of the investigation, there is no proof that Beretta made wrongful use of the ICRC mail system to transfer funds or valuables to Switzerland. Research carried out by Hector Bachmann, Director of the ICRC's Finance Division, to try and find trace of the million Romanian lei allegedly sold to the ICRC, did not yield any results either. As for the 710 gold coins, they were handed over in Istanbul in January 1945; they had been entrusted to Beretta in May 1944, and he himself had returned to Switzerland that summer, following his mother's death.
4. The documents in the archives of the ICRC and the Swiss Confederation do not give any indication as to the provenance of the coins entrusted to Beretta's care. The Istanbul newspaper *Yeni Sabah* of 14 February 1945 maintained that the coins had come from Nazi concentration camps in Austria and Hungary. This is not impossible, but no documents have been found to substantiate that allegation.
5. Colonel Masson's intervention on Beretta's behalf raises the question as to whether Beretta was in fact a member of Swiss Army Intelligence. At this stage, no evidence has been found to that effect. In fact, it appears somewhat unlikely that Beretta was a Swiss intelligence agent, because in that case the most elementary caution would have prevented Colonel Masson from mentioning his name in writing, thus unmasking one of his own agents.
6. It should be noted that the accusations levelled against Beretta and his co-defendants were dropped one after another. The charge of espionage was abandoned rapidly. Possession of gold coins was not an offence in itself, as trading in gold was not subject to restriction in Turkey. At the end of the day, the only remaining charge outstanding

related to offences against the law protecting Turkish currency — that is, changing money on the black market. When the accused were brought to trial, two of them were acquitted and the other two were sentenced to three months' imprisonment, i.e., the period they had already spent in custody. As the Swiss Minister in Ankara observed at the time, the whole affair just "petered out".

## II. Allegations of espionage

(a) Other documents in the OSS files call into question the actions of ICRC delegates based in North Africa, and also in Naples and Marseilles.

These allegations are largely based on the confession of Jean-Roger Pagan, a Swiss national who was arrested by the French military security services in Algiers on 14 October 1943 after being caught in the act of spying for German intelligence.

Pagan had been employed by the ICRC from March 1941 to March 1942 in the Colonial Service of the Central Prisoner of War Agency in Geneva, which handled the correspondence of prisoners from the French colonies. He left the ICRC of his own accord in February 1942, stating in his letter of resignation that he was on his way to Morocco, and adding: "Since I shall be returning to Switzerland on business, I could easily represent the Central Prisoner of War Agency in its dealings with French Red Cross organizations in Morocco, Algeria and Tunisia". The ICRC turned down his proposal. In August 1942, Pagan again offered his services to the ICRC, this time to represent it in Dakar, where he said he was also going on business. The ICRC rejected this offer as well.

During interrogation after his arrest, Pagan denounced Georges Graz, the Technical Director of the Central Prisoner of War Agency, who was working in Algiers at the time and who was a former classmate of his. Graz was immediately arrested, on the night of 14 to 15 October 1943, in his room at the Aletti Hotel. During the ensuing search, the military security services confiscated his papers.

Graz, who had been in North Africa since April 1943, was sent there to look into various matters, including the general organization of ICRC delegations in North Africa (Algeria, Morocco and Tunisia); the forwarding to the ICRC of information on prisoners of war and civilian internees in the hands of the French, British and American forces; improvements to the message service between civilians in North Africa and metropolitan

France and, more generally, the air and ship postal services between Europe and Africa; and repatriation of the seriously wounded.

At the time, the French authorities were holding 55,000 prisoners of war (17,000 Germans and 38,000 Italians) and the British and American forces 210,000 (111,000 Germans and 99,000 Italians).

Georges Graz was very active; he conducted numerous visits to prisoner-of-war camps in difficult conditions (each time travelling two to three thousand kilometres on unpaved roads), to the detriment of his own health. Forced by illness to extend his stay in Algeria by several weeks, he came across his former classmate Pagan, who began to visit him almost daily and performed small services for him, such as typing up his notes.

Graz remained under interrogation until 18 October 1943, when he was released. After a final encounter with Pagan, he left Algiers on 25 October 1943.

Among the documents that were confiscated from his hotel room by the military security services was a copy of a report which Graz had written on his own initiative and which contained his personal impressions on the situation in Morocco, Algeria and Tunisia. The fact that the report underscored the dependence of the Free France authorities on their British and American allies was probably considered an aggravating circumstance.

Convinced of its delegate's entire loyalty, the ICRC responded officially to his arrest in a note dated 3 February 1944 and addressed to the French authorities in Algiers. The answer, dated 29 April 1944, was signed by the Commissioner for Foreign Affairs of the French Committee for National Liberation, Ambassador Massigli. After stating that, owing to the important responsibilities incumbent on them, the services concerned had not been able to overlook, during their investigation, the close private relations between Graz and Pagan at the very time the latter was engaging in criminal activities, the Ambassador wrote:

"These services nevertheless refrained from drawing any conclusions implicating Mr Graz. Indeed, at my request, they authorized him to leave the territory of French North Africa rapidly, for his continued presence would have given rise to difficulties in view of his relationship with the accused.

They thereby intended to show, with the full support of my Commissariat, that all suspicion had been lifted in connection with Mr Graz' activities as a representative of the International Committee of the Red

Cross. In this respect, I wish formally to renew the assurances which I have already given you.”

In the end, no charges were brought against Georges Graz and no legal action was taken against him. This was confirmed in a letter of 7 November 1996 from the officer in charge of the central archives of the French military legal authorities in Le Blanc (Annex 2). Graz may be faulted only for imprudence in having allowed a childhood friend — whom, in fact, he had no reason to mistrust — to visit him when he was sick in bed.

According to the OSS documents — which on this point are invalidated by the aforementioned letter of 7 November 1996 — Pagan implicated other ICRC employees as well, namely, Edouard Wyss-Dunant, Jean Sublet and a certain “Pasch”. Pagan was said to have been recruited in Switzerland by Maximilian von Engelbrechten, the Consul in charge of Red Cross affairs at the German Consulate General in Geneva, and by someone named von und zur Mühlen at the German Legation in Bern. His assignment, for which he allegedly received between 10,000 and 20,000 Swiss francs, was to pass on information of an economic and military nature concerning the Allies in French North and West Africa.

As regards Dr Wyss-Dunant, a delegate in Algiers, the ICRC has found no indication whatsoever that he may have engaged in espionage or was accused of doing so.

Jean Sublet, who worked as a volunteer for the ICRC in Tangiers beginning in October 1943, was responsible for forwarding mail from ICRC delegations to Spain and Portugal or North Africa and speeding up the delivery of parcels to both French prisoners of war in Germany and German prisoners of war in North Africa.

It seems that in 1942 he had provided information to the German Consulate in Tangiers about a French prisoner from Germany who had been sentenced to death by a military court in Morocco for his activities in the service of Germany. Thanks to Sublet’s intervention, the Frenchman apparently escaped execution and was able to continue his activities against his own country. The ICRC naturally had no knowledge of these events when it took on Sublet, who was at the time an architect in Tangiers and was also involved in the import-export business. When it found out about the accusations against him in late November 1944, the ICRC immediately dismissed Sublet who, although acknowledging the facts, admitted to nothing more than having disclosed confidential information in an ill-considered manner.

Sublet was blacklisted by the Allies in 1945, but had his name taken off the list a year later as part of a general amnesty.

The OSS documents claim that a certain "Pasch" put Pagan, while the latter was still working for the ICRC, in touch with Maximilian von Engelbrechten. Thus far it has not been possible to identify the person in question. Several people by the name of "Pasche" worked for the ICRC at the time, either as paid staff or as volunteers. However, all were in subordinate posts and none held any important responsibilities.

Von Engelbrechten, the Consul in charge of Red Cross affairs at the German Consulate General, was a contact, not an employee, of the ICRC.

As for Jean-Roger Pagan, he was sentenced to death by a military court in Algiers in September 1944 and executed on 2 December of the same year.

The ICRC has no information indicating that any of the other delegates mentioned in the OSS documents were implicated in this matter or were involved in any espionage activities whatsoever.

(b) The author of the OSS memorandum of 4 February 1944 also calls into question the activities of François Ehrenhold, an ICRC delegate posted in Marseilles, in the following terms:

"Another person in the Red Cross whose activities are dubious is EHRENHOLD, the Swiss German chief of the IRC in Marseilles [...]. According to certain Portuguese reports, however, he makes a practice of interviewing members of the crews of ships which put in at Marseilles and securing naval information through them. It is reported on what we believe to be reliable authority that a certain GUILLENNE CONCALVES COSTA CURTO, chief officer of the Portuguese SS AMBRIZ, transmits information to EHRENHOLD in cigarettes which he takes on shore whenever the ship is in port at Marseilles, and that EHRENHOLD and other Germans ask for CURTO whenever the ship calls there."

In fact, François Ehrenhold was head of a unit dealing with ships flying the Red Cross flag and carrying consignments (relief supplies and correspondence) for prisoners of war. His duties were to supervise the loading of ships so as to ensure that they were not used for purposes other than International Red Cross operations; to allocate the consignments to the various ships; to receive and dispatch cargo; to plan the itineraries (which had to be notified to the warring parties concerned) and forward the necessary instructions to the shipowners or their agents, especially regarding distinctive signs, timetables and routes; to handle formalities with the

local authorities; and to deal with the staff in charge of supervising the consignments at sea and in the ports of call.

In 1943, the period with which the OSS allegations are concerned, 103 ships hailing from Philadelphia, Buenos Aires and Lisbon called at Marseilles, bringing 110,000 tonnes of relief supplies that were sent on by the delegation to Switzerland aboard 9,400 train cars for dispatch to various prisoner-of-war camps.

The *Ambriz*, mentioned in the OSS documents, was one of the ships that travelled between Lisbon and Marseilles. On 5 May 1944, it made its 50th voyage under the Red Cross flag.

Thus, it was one of Ehrenhold's regular duties to maintain contact with the ships' crews, in particular the chief officers, and to exchange information with them, above all on security matters.

(c) According to the OSS documents, another delegate came under suspicion because he travelled to Cairo when an important diplomatic conference was taking place there:

"At the time WYSS DUNANT summoned Bon and Kuhne to Algiers, he announced he was sending DUCHOSAL to Cairo. It would not appear that Cairo is an important base for IRC activities, but it is significant that DUCHOSAL was sent there at a time that coincided exactly with the Cairo Conference [...]."

The reason for Jean Duchosal's trip to Cairo is known: he was to try to meet a Soviet diplomat with a view to restoring contact with the authorities of the USSR. Moreover, it was the United States Ambassador in Algiers who, knowing of his assignment, arranged for a plane to take him to Cairo.

Lastly, while the ICRC did occasionally use the United States diplomatic pouch, it was not, as alleged in the OSS documents, in order to evade censorship, but because of the irregularity and slowness of communications which created many difficulties for the Central Prisoner of War Agency. Indeed, it was in the interest of the detaining countries that the information they supplied should reach Geneva — and from there the prisoners' countries of origin — as quickly as possible so that, by the same token, they could receive information about their own detained nationals without delay.

(d) The author of the OSS memorandum of 4 February 1944 confuses Dr Paul Burkhard, an ICRC medical delegate working in Naples, with Professor Carl Burckhardt, a well-known historian and diplomat, former

High Commissioner of the League of Nations in Danzig, member of the ICRC and Chairman of the Joint Relief Commission of the International Red Cross. It was undoubtedly this confusion that led the author of the memorandum to conclude that the "International Red Cross" had been infiltrated up to the level of its governing bodies, but it also demonstrates the person's meagre knowledge of the ICRC.

(e) The author of the memorandum accuses ICRC delegates, in particular Dr Paul Burkhard, posted in Naples, of having passed on information about the vessel *S. S. Canada*: "Late in December, the IRC headquarters in Geneva cabled IRC in Algiers details of an elaborate communication system for the Red Cross between North Africa and Southern Italy. A Dr BURKHARD was designated as correspondent, and later as co-delegate of IRC for Southern Italy. KUHNE was told to get in touch with him. They were to work in prisoners' camps in Southern Italy. All of this would seem to be legitimate Red Cross activity. In addition, however, the cables set forth plans for an elaborate system of communications and details for the use of a ship, the *S. S. CANADA*, in terms scarcely necessary, it would appear, for ordinary, or even extraordinary Red Cross use. Inasmuch as KUHNE is already suspect, because of his associates, one inevitably questions the innocence of the plans. Since the date of the first cables, others, of a similar sort, further elaborating the details, have passed." (Memorandum of 4 February 1944, "Enemy agents and the International Red Cross", unsigned, p. 3).

In fact, in a letter dated 24 December 1943, the French Committee for National Liberation in Algiers asked the ICRC to notify the Reich government and the Italian Command of the commissioning of the hospital ship *Canada* and communicated all its characteristics in accordance with the provisions of Hague Convention No. X of 18 October 1907 (Annex 3). The French government subsequently asked the ICRC to send further notification about the ship on 25 November 1944 (Annex 4).

(f) Likewise, the author of the 21 February 1944 report criticizes Tunis-based delegate Dechevrens for sending a telegram giving the identities and addresses of Corporal Fritz Winkelmann and Corporal Karl Klingemann, both representatives of German prisoners of war. The report continues: "The fact that a German prisoner of war is a trustee in a prison camp seems to be of no possible use for the Red Cross, but distinctly of interest to the German army" (Report dated 21 February 1944, p. 6).

Records show that Corporals Winkelmann and Klingemann acted as representatives of German prisoners of war under Article 43 of the Geneva Convention of 27 July 1929 on the treatment of prisoners of war. It was

the ICRC's practice to identify prisoner-of-war representatives in its reports; there was nothing confidential about such information.

Moreover, throughout the war the ICRC conveyed the names, addresses and other particulars of several million prisoners of war to both their States of origin and their families. This was done not only for German and Italian prisoners but also for prisoners from Poland, France, Belgium, the Netherlands, Norway, Yugoslavia, Greece, the United Kingdom, the United States, etc. By 1944 one would have had to be particularly ill-informed not to know this.

(g) The other allegations concerning ICRC delegates are largely based on rumour. For example, several delegates are declared to be suspect for the sole reason of having shared rooms with US officers at the Aletti Hotel in Algiers — a circumstance easily explained by the shortage of hotel rooms in a city suddenly promoted to the status of capital of Free France and headquarters of the Allied forces operating in the western Mediterranean.

Similarly, with regard to some delegates, the reports merely mention that they should be placed under surveillance. There is nothing surprising about this, as it is perfectly legitimate for a State at war to monitor the movements of delegates whose task it is to travel widely within the country and abroad, who have access to camps holding enemy prisoners whom they are authorized to interview in private and whose language they might speak, who also have contact with military authorities, whose work often requires them to meet representatives of the enemy along cease-fire lines or in neutral countries, and so forth.

Be that as it may, we have no evidence that the senior American authorities attached to these reports the importance that certain sectors of the media are seeking to ascribe to them today. Neither the US nor the French government withdrew its confidence from the ICRC, nor was the institution asked to recall its delegates.

### III. Conclusions

US documents published in recent months have named 49 individuals as being suspected by the OSS of engaging in espionage. Of these, 21 are identified as representatives of the "International Red Cross". In fact, 18 were staff members of the ICRC, whether on a permanent or a temporary basis.

At this stage in our investigation, three of these 18 individuals appear to have committed reprehensible acts.

In one case, a delegate was involved in an affair that bears all the hallmarks of a dubious venture in which the primary motive was personal gain. The ICRC dismissed him as soon as it learned of his activities. Its attempts to shed further light on the matter came to nothing.

As for the two other cases, they did involve espionage, but it should be pointed out that the individuals concerned — who held junior positions — engaged in espionage either after they had left the service of the ICRC or before they began working for it. In any event, the ICRC obviously had no knowledge of such activities.

The allegations regarding the other ICRC delegates are based on rumour and show total ignorance of the organization's role and work. The authors of the reports describe as espionage perfectly normal activities that were conducted openly, with the consent or at the request of the Allied authorities.

Finally, it should be pointed out that during the Second World War the ICRC had over 3,000 employees in Switzerland, mostly working for the Central Prisoner of War Agency and the Relief Division, as many as 180 delegates posted to 92 delegations or sub-delegations in 61 different countries, and several thousand locally recruited employees. By 30 June 1947, the Agency's files contained nearly 36 million index cards. By then the ICRC had received over 59 million letters — mainly requests for information about prisoners of war or other missing persons - and had sent out over 61 million replies. ICRC delegates had made more than 11,170 visits to camps for prisoners of war or civilian internees and had arranged for the delivery and distribution of 470,000 tonnes of relief supplies to prisoners of war and civilian internees — mostly in Germany — or the equivalent of about 90 million 5-kg parcels. The Joint Relief Commission of the International Red Cross had delivered and distributed some 165,000 tonnes of food, medicines and other relief supplies to needy civilians, while over 750,000 tonnes of food and other supplies had been distributed by the ICRC, the Swedish government and the Swedish Red Cross in Greece alone.

Geneva, 28 February 1997

François Bugnion

#### Annexes

1. Letter of 12 March 1945 from the Turkish Legation in Bern to the ICRC
2. Letter of 7 November 1996 from the officer in charge of the central archives of the French military legal authorities in Le Blanc, France
3. Letter of 24 December 1943 from the French Committee for National Liberation
4. Letter of 25 November 1944 from the French government

*Bern Elitzi*  
100-54-309.



Copie conforme  
ARCHIVES DU CICR  
CL 11.03.05

Berne, le 12 mars 1945.

**annexe 1**

Messieurs,

*Répondre 24/3/45  
J. Bouchard*

Me référant à ma lettre du 7 mars 1945, j'ai l'honneur de porter à votre connaissance que, d'après les renseignements complémentaires que nous venons de recevoir du Ministère des Affaires Etrangères à Ankara, Monsieur Giuseppe Beretta, ancien délégué-adjoint de la Croix-Rouge en Turquie, ainsi que quelques autres personnes, de nationalité turque et étrangère, sont soupçonnées d'avoir agi contre les prescriptions de la loi sur la protection de la monnaie turque et aussi d'avoir importé certaines marchandises sans les déclarer à la douane.

Comme il a été spécifié dans ma lettre susmentionnée, une enquête judiciaire est en cours et des mesures ont été prises en vue de suspendre toute campagne de presse visant l'activité de la Croix-Rouge en Turquie.

Veuillez agréer, Messieurs, les assurances de ma considération distinguée.

Le Conseiller de la Légation  
de Turquie:

*J. N. Bouchard*

1350 \* 14 MAR 1945

Secrétariat Général du Comité International

de la Croix-Rouge,

G E N E V E .

annexe 2

DM/ED  
RÉPUBLIQUE FRANÇAISE

MINISTÈRE DE LA DÉFENSE

DÉPÔT CENTRAL D'ARCHIVES DE LA JUSTICE MILITAIRE

014  
141(47)

Boîte Postale : 214  
36300 LE BLANC  
Téléphone : 02 54.37.48.55  
Télécopie : 02.54.28.55.70

LE BLANC - 7 NOV 1996  
N° 0881 /DCAJM/  
D.2144/10012

13.NOV1996\*005588

GER ARCH

A TRAITER POUR INFO

SUITE  
DONNÉE

L'Officier greffier principal,  
Chef du Dépôt central d'archives  
de la justice militaire

à

Monsieur Jean-François PITTELOU  
Comité international de la croix-rouge  
19, avenue de la Paix  
CH. 1202 GENEVE

Monsieur,

En réponse à votre lettre en date du 9 octobre 1996, qui m'a été transmise par le Service historique de l'armée de terre, j'ai l'honneur de vous faire connaître que mon service détient le dossier de la procédure suivie à l'encontre de PAGAN Jean, Roger devant le Tribunal militaire permanent d'ALGER.

Toutefois, j'ai le regret de vous faire connaître qu'il ne m'est pas possible de donner une suite favorable à votre requête.

En effet, s'agissant d'archives judiciaires de la défense, la loi actuellement en vigueur n'autorise pas leur libre consultation avant un délai de cent ans à compter du dernier acte de la procédure.

En outre, d'une part, Monsieur PAGAN n'appartenait plus au Comité international de la croix-rouge lors de la commission des faits qui lui sont reprochés ; d'autre part, il résulte de l'étude du dossier qu'aucun membre du Comité international de la croix-rouge n'a été incriminé par Monsieur PAGAN. Quant à Monsieur GRAZ, il n'a fait l'objet d'aucune poursuite judiciaire.

Je vous prie d'agréer, Monsieur, l'expression de mes salutations distinguées.

13.NOV1996\*005588



D MATIGNON

# ICRC ACTION DURING THE SECOND WORLD WAR

annexe 3

COMITE FRANCAIS DE LA  
LIBERATION NATIONALE

COPIE

~~REPUBLIQUE FRANCAISE~~

Commissariat aux Affaires  
Etrangères

Alger le 24 décembre 1943

No 12313/194

Monsieur le Délégué,

J'ai l'honneur d'accuser réception de votre lettre No 230 JP.P/MD concernant l'utilisation du "CANADA" comme paquebot hôpital.

Me référant à la Convention de la Haye du 18 octobre 1907 dont les articles II et III stipulent que notification du nom des navires-hôpitaux doit être faite à la Puissance adverse avant toute mise en usage, je vous serais reconnaissant de prier le Comité International de la Croix Rouge à Genève de faire cette communication au Gouvernement du Reich et au Commandement Italien. L'entremise du Comité de Genève paraît en effet la voie la plus indiquée pour faire cette communication.

Je vous indique ci-dessous les caractéristiques du "CANADA".

Tonnage	Jauge brute:	9.700 tonnes
	Jauge nette:	5.700 tonnes
Déplacement en pleine charge		12.850 tonnes
Longueur		149 mètres 65
Largeur		17 mètres 20
Tirants d'eau AV	pleine charge	7 mètres 80 lège 5 m.
AR	"	7 mètres 80
2 cheminées		
Hauteur de mâture		41 mètres 30
Vitesse maximum de route		15 noeuds
Vitesse moyenne de route		13 noeuds.

J'ajoute que ce navire hospital sera utilisé sur tous les théâtres d'opérations où seront engagées des troupes françaises.

Veuillez etc....

signature



Copie conforme

ARCHIVES DU CICR

Archives DTCM

AL/SC **annexe 4**

Ministère  
Des  
Affaires Étrangères

UNIONS



Copie conforme  
ARCHIVES DU CICR

RÉPUBLIQUE FRANÇAISE

Paris, le 25 NOV 1944

27 NOV. 1944

Transmis par  
Délégation C. I. C. R. Paris

Monsieur le Délégué,

Me référant à la correspondance que mon Département a eue antérieurement avec M. Pradervand, j'ai l'honneur de recourir à la bienveillante intervention du Comité international de la Croix-Rouge pour adresser au Gouvernement allemand et aux autorités belligérances italiennes, conformément aux articles II et III de la Convention de La-Haye du 18 Octobre 1907, la prochaine mise en service comme navire hôpital du bateau " CANADA " de la Compagnie Fabre .

La libération du territoire français métropolitain et l'insatallation à Paris du Gouvernement Provisoire de la République me paraissent aujourd'hui de nature à faciliter cette démarche . Au surplus, étant donné que le Comité International de la Croix-rouge joue en France le rôle de protecteur des intérêts allemands, il est naturel, que par réciprocité, le Gouvernement allemand accueille toute action analogue pour la protection des intérêts français, surtout lorsque cette action se fonde sur une disposition formelle d'une Convention fixant les rapports entre belligérants .

Je crois devoir rappeler ci-dessous les caractéristiques du bâtiment :

Tonnage : jauge brute 9.700 tonnes  
                  jauge nette 5.700 tonnes  
Déplacement en pleine charge 12.850 tonnes  
Longueur : 149 m 65  
Largeur : 17 m 20  
Tirant d'eau : AV . pleine charge 7m.80 lège 5m.  
                  AR : pleine charge 7m80 lège 5m

2 cheminées  
Hauteur mâture 41 m 30

Monsieur le Docteur de MORSIER  
Délégué du Comité International de la Croix-rouge  
Légation de Suisse  
142 rue de Grenelle - PARIS -

.....

Vitesse maximum de route : 15 noeuds

Vitesse moyenne de route : 13 noeuds 2

Le "Canada " sera utilisé au bénéfice de la première armée française pour le transport des blessés et malades évacués des ports méditerranéens sur l'Afrique du NORD.

Je vous prie, Monsieur le Délégué, de bien vouloir remercier le Comité international de la Croix-rouge pour son obligeante entremise et d'agréer l'assurance de ma considération la plus distinguée ./.



The image shows a circular official stamp of the International Committee of the Red Cross (ICRC). The text around the perimeter of the stamp reads "COMITÉ INTERNATIONAL DE LA CROIX-ROUGE" at the top and "GÈNEVE" at the bottom. In the center of the stamp, there is a handwritten signature in dark ink, which appears to be "Yer". A long, thin horizontal line extends from the left side of the signature across the page.

*Keynote address by Cornelio Sommaruga, President of the International Committee of the Red Cross, at the Conference on Humanitarian Action and Peace-keeping Operations, organized by the United Nations Institute for Training and Research, the Institute of Policy Studies (Singapore) and the National Institute for Research Advancement (Japan) and held in Singapore, 24-26 February 1997*

## **Humanitarian action and peace-keeping operations**

**by Cornelio Sommaruga**

It is an honour and a privilege for me to address this Conference devoted to a topic of great importance to the International Committee of the Red Cross (ICRC). As a humanitarian organization, whose mandate it is to provide protection and assistance for victims of armed conflicts and which is operational worldwide, the ICRC has been directly concerned with many peace-keeping missions undertaken by the United Nations.

Let me first point out that maintaining peace is an essential task of the United Nations, and that those organizations — such as the ICRC — which are confronted daily with the horrors of war can only welcome the sustained efforts being made in this domain. Peace-keeping operations are part of this primary mission of the United Nations. They are of particular interest and relevance to us, because they may have a bearing on our action and lead to frequent contacts between our delegates and UN military personnel in the field.

In my address I propose to briefly review the development of peace-keeping and its implications for humanitarian organizations, before identifying some key points regarding the relationship between peace-keeping operations and humanitarian action.

## **The development of United Nations peace-keeping operations**

It seems to me that thus far we have moved through three distinct, but closely related phases of peace-keeping, which have each had different implications for humanitarian action.

### *Traditional peace-keeping*

During the first phase, the UN developed and practised what has become known as traditional peace-keeping, which lays emphasis on consent and cooperation and the non-use of force, except in self-defence. Such missions, which included monitoring or supervising cease-fire or armistice agreements in the context of international armed conflicts, observing frontier lines, acting as a buffer between belligerents and assisting in troop withdrawals, monitoring or even running elections, largely proved to be both distinct from and complementary to humanitarian activities. The ICRC has welcomed the good cooperation and the complementarity achieved in many such successful operations.

### *Expanded peace-keeping and enforcement action*

In the immediate aftermath of the Cold War, a broader, more ambitious notion of peace-keeping emerged. Such operations led to increasing UN engagement in a wide range of intra-State conflicts, as well as involvement in the process of national political reconstruction, including the rehabilitation of collapsed State structures. Some of the tasks assigned to peace-keeping were no longer clearly distinct from humanitarian action, for example in contexts where they included ensuring the delivery of humanitarian relief supplies. In some cases the blurring of responsibilities was compounded by the fact that the political objectives of peace-keeping and peace-enforcement were unclear and their mandates ill-defined.

The ICRC saw the danger of humanitarian efforts becoming integrated into a political process and of their becoming politicized themselves. It thus became necessary to reaffirm that political efforts at conflict resolution and the requisite military support must be clearly separated from humanitarian action, which cannot be subordinated to the political aims of peace-keeping operations. This is why the ICRC has strongly advocated the creation of a humanitarian space, thereby emphasizing the need to leave room for independent humanitarian action in situations of conflict.

I should also point out that in implementing broader mandates in situations of armed conflict, United Nations forces have been faced with entirely new problems, such as those related to methods and means of

combat, detention of prisoners and protection of the civilian population. The question of applicability of international humanitarian law to peace-keeping forces has thus become extremely topical. It has spurred the ICRC and the UN Secretariat, in close consultation and collaboration with each other, and with the advice of former commanders of UN peace-keeping missions, into drafting guidelines for UN military missions. These are founded on the basic tenets of international humanitarian law and should make up for the perceived legal problems arising from the fact that the United Nations are not party to the Geneva Conventions and their Additional Protocols.

I discussed these guidelines last year with the former Secretary-General, who found them most valuable. I recently brought up the same issue with the new Secretary-General, who is extremely supportive in this matter, as he already was in his former position as head of the UN Department of Peace-keeping Operations. I am therefore confident that these rules, entitled *Directives on International Humanitarian Law for the United Nations Forces*, will soon be issued to United Nations troops. We are very pleased to have contributed to this effort, because we are convinced that exemplary behaviour on the part of soldiers recruited for UN missions is essential in reinforcing the credibility and efficiency of those missions.

### *Reduced ambition for peace-keeping*

There are now signs that the UN is entering yet another phase of peace-keeping, a phase marked by reduced political will and a general mood of retrenchment. It seems that the experiences in Mogadishu, Kigali and Srebrenica have dampened the enthusiasm of Member States for UN peace-keeping. I hope that these signs of retrenchment are a passing phenomenon, an interregnum marking the present period of uncertainty, because the role of the United Nations in ensuring respect for international law, and thus preserving or restoring peace, remains crucial. But as an immediate consequence of the current reduced ambition for peace-keeping, one of the major challenges facing humanitarian organizations today is the tendency to use humanitarian assistance as a substitute for political action.

This lack of commitment for peace efforts has given rise to a spiral of violence and callous disregard for the lives of non-combatants and has restricted the latitude for humanitarian activity. In the absence of decisive political action, our work has become more hazardous and in some conflict situations has even reached a near standstill, in spite of all our efforts.

The tragic dimension of a growing disregard for the humanitarian ethos was brought home to us by the cold-blooded assassination of three ICRC delegates in Burundi last June and again by the horrific events that took place in Novye Atagi, Chechnya, on 17 December, in the compound of an ICRC field hospital: five nurses and a delegate were murdered in their sleep, in a cowardly attack by a commando of masked men using guns fitted with silencers. More recently still, medical staff of the organization *Médecins du Monde* and UN human rights monitors were murdered in Rwanda.

In view of such barbaric acts, the question may be asked whether humanitarian organizations have any choice but to place their operations under military protection. This is not the first time such a question has been raised. The ICRC was already confronted with the problem in Somalia when, faced with the urgent needs of hundreds of thousands of starving civilians, it had to take the exceptional decision to place its convoys under the protection of armed militias. That experience taught us, however, that such arrangements have serious drawbacks in the long term. Indeed, if we were to resort to such measures on a more general scale, humanitarian action would lose the neutrality and impartiality it must preserve in order to be able to operate in aid of all victims. Using armed guards to protect ICRC premises against banditry has, however, become ineluctable in some cases.

### **Characteristics of humanitarian action**

At this juncture, I would like to emphasize my concern about the indiscriminate use of the term “humanitarian”. Indeed, much of today’s international response to a conflict is labelled “humanitarian”. Such broad use of the word “humanitarian” may blur perception of the distinct character of humanitarian operations, which require, especially in situations of conflict, scrupulous respect for and adherence to a number of basic principles. These include in particular the principles of humanity, impartiality and neutrality, which form part of the Fundamental Principles of the International Red Cross and Red Crescent Movement. Those principles are increasingly referred to in UN resolutions and in the context of UN humanitarian and peace-keeping operations. That is why I feel it is important to reach a consensus on what they imply. Allow me therefore to briefly examine their content and meaning.

#### *Humanity*

Civilians have a fundamental right under international humanitarian law to be protected from attack, torture and other violations of their

physical and moral integrity. The term humanitarian, as used in international humanitarian law, gives rights to and confers obligations on those concerned by armed conflict, that is, primarily, the parties to the conflict and the victims, but also third States and international and non-governmental organizations. The law emphasizes the right of the victims to receive humanitarian assistance. The corresponding duty upon the State in which the conflict is taking place is to agree to a relief action which is humanitarian and impartial in nature and whose purpose it is to provide aid essential for the survival of the civilian population, such as food and medical supplies.

Those basic premises entail two major consequences: first, humanitarian assistance must not comprise any element that could contribute to the military effort, and second, the distribution of aid must be prompted by the sole criterion of need. In other words humanitarian action simply seeks to relieve suffering and to introduce into situations of conflict fundamental values of humanity, such as respect for life and human dignity.

Humanitarian action, by its very nature, can never be coercive. The use of force against the will of parties to a conflict — even for valid humanitarian reasons, for instance to ensure the delivery of humanitarian assistance — would necessarily turn humanitarian action into a military operation.

I should stress that the mere threat of the use of force aimed at facilitating humanitarian work can jeopardize humanitarian action, in particular since such a threat cannot be maintained indefinitely. Indeed, it causes the military operation to lose credibility while at the same time hampering efforts to provide humanitarian aid on the basis of consensus between parties.

### *Impartiality*

Impartiality is the corollary of the principle of humanity with regard to human suffering, and can be defined as not making any discrimination based on race, nationality, religion, political opinions or any other similar criteria. The ICRC, along with other humanitarian organizations, endeavours to relieve the suffering of individuals, giving priority to the most urgent cases and needs. In practical terms, impartiality does not necessarily mean equality of treatment. It implies providing to individuals what is considered appropriate to cover their basic needs.

Without impartiality, confidence may be lost and it generally becomes difficult to rely on continued cooperation between the parties. Impartiality

is therefore as much a matter of practice as of perception, and may be challenged daily by any of the parties involved.

Non-discrimination as the basic component of impartiality is hard, if not impossible, to ensure in situations where enforcement measures, such as the imposition of economic sanctions or even recourse to military force, are taken. In such situations it is particularly vital to maintain a clear distinction and to avoid close association between military forces and humanitarian organizations, mainly in order to allay any suspicion of complicity.

### *Neutrality*

Neutrality implies not taking sides in hostilities, or engaging at any time in controversies of a political, religious or ideological nature. For the ICRC neutrality is by no means tantamount to indifference or passivity. Indeed, the ICRC is never neutral when it comes to human suffering.

Neutrality is not an end in itself, but a means to an end. Its basic purpose is to secure the confidence of all parties to a conflict, and thus to ensure unimpeded access to all victims. Neutrality therefore implies not being in any way connected with the dispute giving rise to the conflict, or with any elements that may be construed as being associated with it. Neutrality also means abstaining from any interference, whether direct or indirect, in ongoing military operations.

By its very nature, the UN Security Council cannot be neutral. Its principal task is to maintain or restore international peace and security, and that task is in essence a political one. Whereas humanitarian protection and assistance have to be provided without any adverse distinction based on the nature or origin of the armed conflict or on the causes espoused by or attributed to the warring parties, the decision to engage in peace-keeping operations is primarily aimed at maintaining and/or restoring international peace and security, as perceived by the Security Council.

### *Independence*

Only by remaining independent can the ICRC serve the interests of *all* victims and succeed in fulfilling its role of a neutral intermediary in humanitarian matters, a role that was conferred on it by the international community. I should mention here that it was surely thanks to its independence that the ICRC was able to gain access and render humanitarian services to members of peace-keeping forces held in captivity in Somalia and in Bosnia.

That being said, the ICRC's independence should not be understood as a retreat into isolation. In fact, the ICRC considers it vital for organizations to harmonize their operations in the field, in a spirit of complementarity. I am fully aware that the multiplicity of humanitarian agencies may create a certain amount of confusion and that coordination efforts need to be strengthened. I myself generally address this issue — when participating in UN fora and discussions — as a very interested outsider!

### **The relationship and cooperation between peace-keeping and humanitarian action**

After this rapid review of the development of peace-keeping and my brief outline of four cardinal principles of the Red Cross and Red Crescent, I would like to emphasize what I consider to be key points for governing the relationship and cooperation between peace-keeping and humanitarian operations.

1. UN military missions are an essential component of successful conflict management; in certain anarchic situations they may prove indispensable in securing respect for international humanitarian law and thus restoring the necessary security environment for the conduct of humanitarian activities. That being said, peace-keeping, and especially peace-enforcement operations, should be clearly distinct in character from humanitarian activities. Military forces should not be directly involved in humanitarian action, as this would associate humanitarian organizations, in the minds of the authorities and the population, with political or military objectives which go beyond humanitarian concerns.
2. Humanitarian action is not designed to resolve conflict but to protect human dignity and to save lives. It should move in parallel with a political process aimed at addressing the underlying causes of a conflict and achieving a political settlement. It should not become a tool designed to mask the absence of resolve to take appropriate political action, or to compensate for its inadequacy. There is no substitute for the political will to find a political solution. Such political commitment is essential if peace-keeping and humanitarian action are to remain effective. This was one of the important lessons of the Rwanda genocide in 1994. It was not a new lesson, and one we learned in Somalia, Liberia and the former Yugoslavia as well.
3. Humanitarian institutions working in situations of armed conflict need to preserve the strictly non-political and impartial character of their

mission. The provision of humanitarian assistance must not be linked to progress in political negotiations, or to other political objectives. This would ultimately lead to an unacceptable distinction between "good" or "deserving" and "bad" or "undeserving" victims. Humanitarian aid and political action must not only be dissociated from each other, they must also be perceived as truly separate. Humanitarian organizations should adhere to a code of conduct, such as the one drafted by the Red Cross and some major NGOs and adopted by some 80 institutions, in order to avoid competition and diverging approaches in their operations, which may jeopardize the achievement of humanitarian objectives.

4. Without ignoring the importance of achieving greater overall coherence in operations conducted at different levels in conflict situations, humanitarian agencies must maintain their total independence of decision and action, while consulting closely with peace-keeping forces at every phase and at every level, in a spirit of complementarity. Consultations should be held already in the preparatory phase of peace-keeping missions which may affect humanitarian activities, particularly when the purpose of those missions is to create safe corridors for the delivery of humanitarian assistance. In the course of operations, a regular exchange of information about the ways in which the respective mandates are being fulfilled should take place, both in the field and at headquarters level. This should help to enhance mutual respect and understanding of each other's missions and constraints. Peace-keeping forces may play a crucial role in sharing situation analyses with humanitarian agencies, especially on questions related to security.
5. When humanitarian activities are deadlocked, in spite of the numerous means of implementation provided for in international humanitarian law and efforts of persuasion made at all levels, and if the Security Council opts for armed intervention, the Council's decision should, in my view, form part of a consistent and comprehensive plan of action aimed at restoring peace, taking into consideration not only humanitarian concerns but also political problems. As a first step it could seek to restore the conditions needed to conduct humanitarian activities, but the political nature and consequences of any such intervention should be clearly assessed, as should their relation to efforts made to ensure respect for international law.
6. It is also of paramount importance that the forces sent to serve under the UN flag include in their preparatory training detailed instruction

in international humanitarian law. The ICRC is ever-willing to contribute to these efforts to ensure knowledge of and respect for international humanitarian law by training instructors and making available teaching aids it has developed.

In closing, I should like to touch upon an issue which I feel merits special attention and which I would call the imperative of preventive action.

### **Imperative of preventive action**

It is a truism that the best alternative to intervention is prevention, and I strongly believe that the international community needs to invest a great deal more in preventive measures. Indeed, such measures can potentially save thousands of lives and prevent widespread destruction; what is more, they cost far less than any peace-keeping or humanitarian relief operation. As the former UN Secretary-General stated, "preventive diplomacy is the most important issue facing us today... It would cost about 1 per cent of what we are paying after a conflict escalates".

The challenge of preventive action is to find ways of ensuring that competition for power and resources does not plunge entire communities into a maelstrom of violence. It is to build patterns of development, institutions, political cultures and ethical values. We must foster a culture of respect for basic human values. We must call on the community of States to address the crucial problem of the transfer of conventional weapons.

This challenge goes far beyond the capacity of the International Red Cross and Red Crescent Movement, even though National Societies play a valuable role at the national level in addressing some of the root causes of conflict. As for the ICRC, its work in the field of prevention is focused mainly on spreading knowledge of the humanitarian principles, and in particular promoting awareness of and respect for international humanitarian law.

It is my sincere wish that through concerted and collective efforts, based on a clear distinction between our respective mandates and roles, we will become more successful in preventing violence and conflict.

## **Meeting of experts on committees or other bodies for the national implementation of international humanitarian law**

**Geneva, 23-25 October 1996**

In the past few years there has been a growing awareness of the need to strengthen implementation of international humanitarian law. States thus have to create the means enabling them to fulfil their obligation to respect and ensure respect for humanitarian law. This requires them to take action in peacetime and to adopt national measures to guarantee compliance with the law in all circumstances.

A reading of the 1949 Geneva Conventions and their 1977 Additional Protocols shows the extreme diversity of the steps to be taken by States. Many spheres of government activity are involved. The cooperation of several ministries, public administrations, State entities and other institutions is needed in this ongoing process of implementation.

Several States have set up specific bodies to facilitate that process. National committees, interministerial working groups and advisory committees on humanitarian law have been established. Their general role is to advise and support governments on matters relating to adherence to the humanitarian treaties, the drawing up of implementation measures, the spreading of knowledge of the humanitarian rules, and humanitarian operations conducted by their respective States.

Because it is convinced of the usefulness of these bodies in ensuring effective application of humanitarian law, the ICRC has encouraged and supported their creation in every State party to the 1949 Geneva Conventions. Its efforts were endorsed by the Recommendations of the Intergovernmental Group of Experts for the Protection of War Victims (January 1995),<sup>1</sup> which were adopted in Resolution 1 of the 26th Inter-

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<sup>1</sup> *IRRC*, No. 310, January-February 1996, pp. 83-88.

national Conference of the Red Cross and Red Crescent (Geneva, December 1995), entitled *International humanitarian law: From law to action — Report on the follow-up to the International Conference for the Protection of War Victims*.<sup>2</sup>

Pursuant to the last paragraph of Recommendation V, the ICRC Advisory Service on International Humanitarian Law convened a *meeting of experts on committees or other bodies for the national implementation of international humanitarian law*, which took place from 23 to 25 October 1996. Over 70 States were represented, including some 40 which sent one or more experts from national committees, ministries or the judiciary in their respective countries. Representatives of 35 National Red Cross or Red Crescent Societies, the International Federation of Red Cross and Red Crescent Societies and the Standing Commission of the Red Cross and Red Crescent also took part. As the meeting was primarily an informal gathering focusing on technical matters, the intention was not to reach conclusions binding on the participants, or even to take decisions on matters of principle.

The proceedings were divided into plenary sessions and smaller working group sessions. They provided participants with an opportunity to discuss various issues arising in connection with national implementation bodies, e.g., the establishment of such bodies and their structure, legal status, composition and fields of activity. The topics covered also included the role which National Societies can play in this regard and forms of regional and inter-state cooperation.

### *Establishment of implementation bodies*

According to the information available to the ICRC, 34 countries have set up national committees or similar mechanisms for the implementation of international humanitarian law;<sup>3</sup> several more have already taken steps to that end, or are considering the possibility of doing so.

The establishment of this type of mechanism is in no way a legal requirement. It is merely a means to an end, which is to achieve effective

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<sup>2</sup> *Ibid.*, pp. 58-60.

<sup>3</sup> Albania, Argentina, Australia, Austria, Belgium, Bolivia, Bulgaria, Cambodia, Chile, Colombia, Denmark, Dominican Republic, Finland, France, Germany, Indonesia, Israel, Italy, Korea (Republic of), Lithuania, Moldova, Namibia, New Zealand, Norway, Panama, Paraguay, South Africa, Sweden, Thailand, United Kingdom, Uruguay, Uzbekistan, Yugoslavia and Zimbabwe.

application of international humanitarian law. States may, of course, fulfil their obligations without setting up any formal implementation body. Most participants in the meeting emphasized, however, that the approach was much more systematic when there was an implementation mechanism.

The experts agreed that this mechanism should be of a permanent nature, as implementation was an ever-evolving process. Similarly, it should have general competence in its field and should be empowered to take initiatives to deal with any question related to its sphere of activity. Extending the mandate of a national human rights committee to matters pertaining to the implementation of international humanitarian law was generally not considered a satisfactory solution, since the objectives and working methods of the two branches of law were quite different.

The participants stressed that implementation bodies should play a stimulating role as fora where the officials concerned gave regular reports on the headway they had made. It was also emphasized that National Red Cross and Red Crescent Societies had an important function to fulfil in encouraging the creation of national committees and in supporting the authorities' efforts.

### *Composition*

National implementation mechanisms are composed of officials or representatives from the relevant ministries. Ideally, the government representatives should hold positions senior enough to enable them to implement the measures recommended by the national committees.

Some National Red Cross and Red Crescent Societies have established their own bodies to monitor implementation issues. Their efforts should not, however, be restricted to those internal mechanisms. One or more National Society representatives may serve on national committees as *ex officio* members or permanent observers, or they may simply be invited to take part in their proceedings. The participants in the meeting considered that the cooperation of National Societies was crucial to the committees' work, by virtue of the Societies' mandate to spread knowledge of humanitarian law and of the experience they had acquired in matters relating to the law. On the other hand, during the discussion on the best way to establish such cooperation, some experts expressed concern that the fact of serving as an *ex officio* member on a national implementation committee might compromise a National Society's independence. They expressed particularly strong reservations in cases where controversial issues were being raised or where there were internal disturbances or conflict in the country.

National bodies often have experts serving as full members or assisting them in their activities. Other components of civil society, including non-governmental organizations, may also join in their work.

### *Activities*

The information provided by the experts showed that national bodies are engaged in a wide variety of activities — ranging from simple advice to the authorities on the ratification of international treaties to the more general task of drawing up lists of steps to be taken to adapt national legislation to the provisions of international law. Several of these bodies have drawn up bills or draft regulations and have proposed practical measures for the implementation of international treaties. National committees are also involved in spreading knowledge of humanitarian law and in training qualified personnel (medical, military or teaching staff) in areas relating to the Geneva Conventions and their Additional Protocols; this is mostly done in cooperation with National Red Cross or Red Crescent Societies. Some committees have become permanent advisory bodies for their governments, offering guidance on any issue pertaining to the humanitarian treaties, or even on humanitarian operations conducted by the State. One of the questions arising in this connection is the role that such committees could play in the event of internal violence.

### *Cooperation with the ICRC*

Paragraph 2 of Recommendation V mentioned above encourages States to facilitate cooperation between the national committees and the ICRC. This cooperation may take various forms and is only now beginning to take shape. The meeting held in October 1996 was one of the first international events that brought people involved in the national implementation of humanitarian law together to exchange views and share experiences in this field.

The participants discussed various possibilities for cooperation between national committees, e.g., sharing information, setting up joint activities, exchanging experts, and holding bilateral or multilateral meetings between bodies from countries in a given region or with a common legal system. For instance, a meeting of committees in Latin America is scheduled for the first half of 1997.

Much attention was devoted to cooperation with the ICRC, and in particular the Advisory Service on International Humanitarian Law, which has provided constant support to countries establishing national commit-

tees. Numerous seminars on implementation have been organized at the national and regional levels for the authorities of various countries. The presence of ICRC legal advisers in the countries or regions concerned helps to promote direct and in-depth dialogue with the officials in charge of implementation. The experts attending the October meeting expressed interest in the plan to set up a database on humanitarian law, containing information on national implementation measures and related case law. The ICRC urged them to contribute to this project by providing it with any relevant information they might have.

### *Future prospects*

The meeting did not attempt to define the future activities of national implementation bodies in any detail, for fear of placing artificial constraints on their development.

National committees will have to create their own working momentum as they evolve. It is not enough simply to establish a committee. Drawing up a list of measures to be taken is a step in the right direction, but the adoption of a law does not necessarily mean that its provisions will be applied.

The meeting clearly revealed a growing interest on the part of States in the creation of national mechanisms for the implementation of international humanitarian law. The contacts established during the proceedings bode well for the development of various forms of cooperation in this sphere. Each of the countries engaged in this process has thus undertaken a long-term task that reflects a new impetus towards full incorporation of the humanitarian treaties in the legal system of every State. That impetus marks a step forward in ensuring effective respect for humanitarian law. With its Advisory Service on International Humanitarian Law, the ICRC stands ready to support the efforts made by the national implementation bodies and will do everything it can to help them achieve their crucial objective.

*Olivier Dubois*  
ICRC Advisory Service on  
International Humanitarian Law

## **1997: the year of a treaty banning anti-personnel mines?**

Following widespread disappointment with the modest amendments made in 1996 to Protocol II relating to landmines, of the 1980 Convention on Certain Conventional Weapons (CCW), hopes have risen that 1997 may see the adoption and signing of a new international treaty prohibiting the production, export, transfer and use of anti-personnel landmines. Although such a treaty might not attract universal adherence at the outset, it would nevertheless establish a significant international legal norm and represent a major advance towards the ICRC's goal of bringing the scourge of landmines to an end.

### *Recent diplomatic initiatives*

On 3 May 1996, during the concluding session of the CCW Review Conference, the Canadian government announced that, given the limited progress that had been achieved over more than two years of negotiations, it would convene a meeting of like-minded States in Canada later in the year to discuss how to make further progress towards a total ban on anti-personnel mines. The Ottawa Conference, which took place over three days in October 1996, brought together 50 pro-ban States, representatives of the United Nations, the ICRC, and representatives of the International Campaign to Ban Landmines, a global coalition of non-governmental organizations (NGOs), to work out a strategy for the total prohibition of anti-personnel mines. An "Ottawa Group" of 50 States was formed around a political declaration calling for joint efforts to:

- prohibit and eliminate anti-personnel mines;
- significantly increase resources for mine clearance and victim assistance;
- progressively reduce or end their own use of anti-personnel mines;
- support a General Assembly resolution calling for a total ban;

- promote regional initiatives in favour of a ban.

In his closing address to the Conference, the Canadian Foreign Minister issued an invitation to all governments to return to Ottawa in December 1997 to sign a legally binding agreement banning anti-personnel landmines. Following the Ottawa Conference, the United States introduced a draft resolution at the United Nations General Assembly calling upon States to negotiate a new treaty totally prohibiting anti-personnel mines. In December 1996, 155 States voted in favour of the General Assembly resolution (A/51/45S), which urges States "to pursue vigorously an effective, legally binding international agreement to ban the use, stockpiling, production and transfer of anti-personnel landmines with a view to completing the negotiation as soon as possible". No votes were cast against this resolution and only 10 States abstained.

At the end of January 1997, the ICRC listed 53 countries which had publicly expressed their support for a global ban on the production, transfer, stockpiling and use of anti-personnel mines. Of these, 28 have either renounced or suspended use of anti-personnel mines by their own forces.

New initiatives towards a ban treaty are currently being pursued along two tracks. As part of the "Ottawa process", it is planned to hold a series of preparatory meetings of interested governments in 1997. The first of these meetings, an exchange of views on a draft treaty text, was held in Vienna from 12-14 February 1997. Representatives of 111 governments, the United Nations, the ICRC and the International Campaign to Ban Landmines participated in the meeting. A revised draft treaty text is being prepared on the basis of the discussions and will be the subject of detailed negotiations at the forthcoming meetings in Brussels (June) and Oslo (October) prior to its adoption and signature in Ottawa in December 1997. In parallel with the Ottawa process, the issue of a negotiated end to the scourge of landmines has recently been proposed as an agenda item for the United Nations Conference on Disarmament in Geneva.

The ICRC's latest position paper on landmines, entitled *Landmines: Crucial decisions in 1997*, offered strong support to the Ottawa process, without disregarding other important initiatives. The overriding objective must be the establishment of a binding international agreement to prohibit unequivocally the production, transfer, use and stockpiling of all anti-personnel mines. For such a prohibition to be truly meaningful, potential loopholes, such as the ambiguous definition of an anti-personnel mine introduced into amended Protocol II of the 1980 CCW, must be firmly closed. Even if such an agreement is initially endorsed by as few as the 38 States which were party to the 1980 CCW a few years ago,

adherence as with other treaties, can and will increase over time, as has been the case with other treaties.

*Campaigning for a ban, assistance to victims and mine clearance*

In tandem with this process, the ICRC's public advocacy campaign launched in November 1995 continues to grow in strength. The campaign, which is run in cooperation with more than 45 National Red Cross and Red Crescent Societies, is designed to mobilize public opinion and foster political will, using the press, television and radio to stigmatize anti-personnel mines in the public conscience. An estimated 600 million people worldwide have already been reached by this message. The campaign also seeks to raise awareness of the need to increase assistance to mine victims and to strengthen mine-clearance programmes. A new series of powerful advertisements supporting the ICRC's message, *Landmines must be stopped*, are currently being finalized. These are intended for use in the international and national media during 1997; it is hoped that they will further reinforce the perception of anti-personnel mines as indiscriminate weapons which must be banned.

At the same time, the needs of the hundreds of thousands of mine victims are slowly being addressed. In early March 1997, an inter-governmental conference is being convened by the Japanese government in Tokyo to consider how to improve the assistance rendered to mine casualties. Despite the best efforts of the ICRC and other humanitarian organizations, too many mine victims are left to fend for themselves because of lack of resources, transport and trained medical specialists, and also because of security and access problems. The ICRC's Health Division has contributed to the Tokyo conference a detailed paper entitled *Assistance for victims of anti-personnel mines: Needs, constraints and strategies*. This document sets out the ICRC's approach to helping landmine victims and proposes practical action by the international community to increase the availability of, and access to, adequate assistance in terms of rehabilitation and care.

The Tokyo conference will also consider the pressing need to strengthen humanitarian mine-clearance programmes. Although the United Nations is developing a set of standards for mine-clearance operations, a major increase in resources is urgently needed to clear priority areas in dozens of severely mine-affected countries across Africa, the Americas, Asia and Europe. Mine clearance is expensive, but so is the cost — human, social and economic — of leaving tens of millions of uncleared landmines scattered over more than 70 countries. At the same

time, resources must be committed to research on and development of low-cost but more effective mine-clearance technologies.

While continuing to encourage increased mine-clearance funding, the ICRC has highlighted the need for programmes to assist communities living with an existing mine threat. In order to alert civilians to the dangers of mines and to teach them how to reduce the risk of injury as they go about their daily lives, the ICRC and the National Red Cross and Red Crescent Societies have been conducting major mine-awareness programmes in at least 11 countries in Africa, Asia, Central America and Central and Eastern Europe (Afghanistan, Armenia, Azerbaijan, Bosnia-Herzegovina, Colombia, Croatia, Mozambique, Nicaragua, Somalia, Tajikistan and Yemen). Countless lives and limbs have already been saved in this way.

### *Regional initiatives*

As a complement to global action, the ICRC continues to stress the value of regional and national initiatives. In this context the ICRC sponsored a seminar on "Anti-personnel mines, mine clearance and rehabilitation of victims in Central America" in Managua in May 1996. The two-day meeting, which brought together the governments of Costa Rica, El Salvador, Guatemala, Honduras, Mexico, Nicaragua and Panama as well as Red Cross Societies, United Nations agencies, donors and NGOs, drew up a broad strategy for the elimination of the mine threat in Central America. The seminar's recommendations called for a total international prohibition of anti-personnel mines backed by effective national legislation, strengthened mine-clearance programmes and improved access to rehabilitative care for mine victims, the ultimate objective being to establish a regional zone free of anti-personnel mines.

In June 1996, the General Assembly of the Organization of American States (OAS) passed a resolution calling for a global prohibition of anti-personnel mines and the establishment of an anti-personnel mine-free zone in the Americas. The OAS called upon member States to institute national moratoria on the production, transfer and use of anti-personnel mines and to ratify the 1980 Convention, in particular amended Protocol II. The OAS also decided to create a registry of mine stocks, mine-clearance efforts and uncleared mines in the region. The OAS effort was soon bolstered by a "regional accord" of the Council of Foreign Ministers of Central America of 12 September 1996, in which Ministers

committed their countries to establishing a regional mine-free zone and to enacting national laws to that effect.

Following the encouraging developments in the Americas, a number of initiatives are being launched in other regions in 1997. An international conference organized by the International Campaign to Ban Landmines in Maputo on 25-28 February 1997 brought together more than 450 participants from 60 countries, mostly African, to promote moves towards a mine-free southern Africa. During the conference, the ICRC convened a strategy meeting on landmines for National Red Cross Societies in the region. The meeting resulted in a forceful joint declaration by the Societies calling upon governments from the region among other things to support the Ottawa process and to implement national prohibitions on anti-personnel mines. In April 1997 military and political experts from southern Africa met at an ICRC seminar in Harare to consider global developments, regional approaches and possible ways forward. In May the Organization of African Unity will sponsor a continental conference in South Africa to address mine clearance, improved assistance to victims and political efforts to end the scourge of landmines in Africa.

In Europe the ICRC, jointly with the Refugee Commission of the Council of Europe, held a one-day seminar on anti-personnel mines in March. The gathering, for Council of Europe parliamentarians from Western Europe, the Russian Federation, the Balkans, the newly independent States and Central Europe, addressed the human, social and economic impact of mines, their military utility, and ongoing global, regional and national initiatives towards a ban. Plans are also under way to organize a consultation of Asian military and political analysts in Manila later in the year.

### *The agenda for 1997*

The international, regional and national initiatives being supported by governments, regional organizations, NGOs and the ICRC throughout 1997 will keep the mines issue high on the international agenda, contribute to the stigmatization of anti-personnel mines and build up further momentum towards their elimination. Decisions made this year will decide the fate of tens of thousands of innocent civilians in the years to come. A new legal instrument prohibiting anti-personnel mines may crown the achievements of 1997. A legal agreement is in itself only one step towards ending the humanitarian emergency created by landmines. But it will stand as a beacon of hope, a signal that the international community has both the

ability and the intention to end the “epidemic” of landmines which threatens the lives and livelihoods of so many individuals and communities around the world.

*Peter Herby*  
Adviser  
Legal Division, ICRC

## **Making the distinctive emblem visible to thermal imaging cameras**

Armed forces have for many years developed new methods of observation in order to increase their capacity to fight at any time of day or night and in any weather conditions. Some have thus equipped themselves with thermal imaging or infrared (IR) cameras,<sup>1</sup> which make it possible to recognize and detect people and objects not only at night but also in poor daytime visibility conditions (for example, through smoke, foliage or light rain).

IR cameras do not distinguish differences in colour; instead, they detect differences in temperature. Thus, a "standard" red cross or red crescent on a white background is not visible by means of thermal imaging, since there is no difference in temperature between the red of the cross or crescent and the white background (see also the visibility tests conducted in 1989)<sup>2</sup>. However, the use of special adhesive tapes with a high thermal reflection coefficient can make the emblem visible to an IR camera. Owing to the thermal characteristics of the tapes, the red cross or red crescent has a different temperature from that of the white background, allowing it to show up in IR photographs. Thermal tapes are most effective when they are angled towards the sky as much as possible.

Furthermore, the use of thermal tapes in making red crosses or red crescents complies with the provisions of the Regulations Concerning Identification,<sup>3</sup> which invite States parties to Protocol I additional to the

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<sup>1</sup> "Thermal imaging": by this means, the electromagnetic energy emitted in the infrared (IR) band (8-14  $\mu\text{m}$ ) by objects is transformed into electrical signals which are then used to draw a map of heat distribution on the landscape, thus forming a "visible" image.

<sup>2</sup> Gérald C. Cauderay, "Visibility of the distinctive emblem on medical establishments, units and transports", *IRRC*, No. 277, July-August 1990, pp. 295 ff., in particular p. 301.

<sup>3</sup> Regulations Concerning Identification, Annex I (amended) of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I).

Geneva Conventions of 1949 to agree on supplementary means designed to enhance the possibility of identification and take full advantage of technological developments in this field.

## Tests

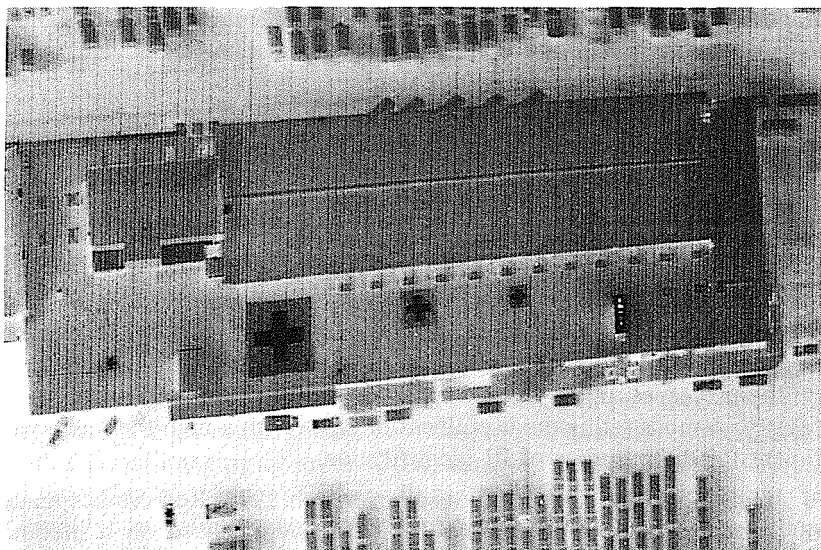
Between 1993 and 1995, the ICRC conducted several visibility tests on red crosses, using adhesive thermal tapes in conditions similar to operational reality, so as to assess the potential of this modern method of identification.

In 1993 and 1994, the ICRC, in cooperation with the Swiss Defence Technology and Procurement Agency, carried out the first visibility tests on thermal tapes, using IR cameras. The results of the tests were satisfactory, demonstrating the usefulness of tapes with a high thermal coefficient for the purposes of IR identification.

Tests were also conducted at sea in March 1995. Red crosses made of thermal tapes and measuring 1.3 sq m were placed on a lifeboat belonging to the United Kingdom's Royal National Lifeboat Institution. A helicopter equipped with an IR camera flew over the boat several times while it was at sea, both during the day and at night. The daytime tests showed that the conjunction of various unfavourable factors (uniform thermal image of the sea, relatively small dimension of the cross, continuous rain and thick cloud cover) made identification of the red crosses on the lifeboat with an IR camera difficult. In the evening the cloud cover lifted, allowing a slight improvement in identification with an IR camera, without however providing very satisfactory results.

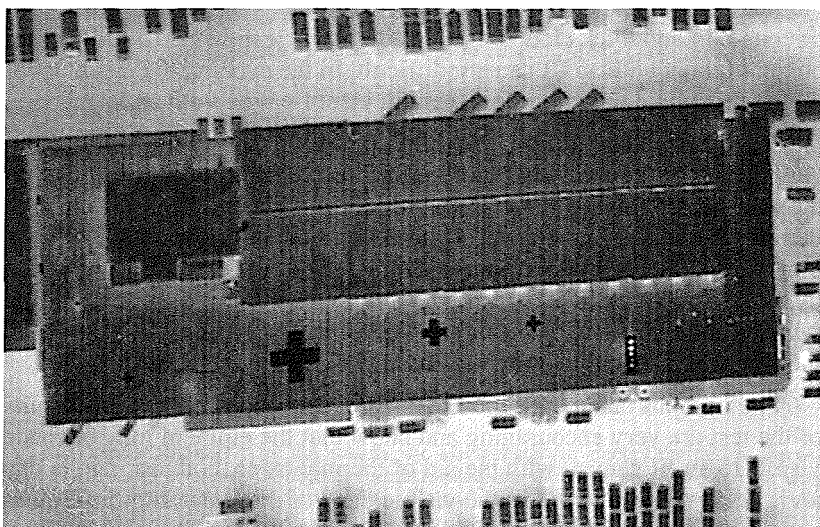
Finally, on 2 and 3 November 1995 the ICRC placed four flags on the roof of a building; the red crosses on the flags had been made using thermal tapes. The four flags were of different dimensions: 10 m × 10 m, 5 m × 5 m, 3 m × 3 m and 2 m × 2 m. An observation aircraft provided by the Swiss army and equipped with an IR camera flew over the building several times, both during the day and at night. Throughout the test period, the sky was partially cloudy but there was no precipitation.

Photographs taken from the IR film are reproduced below. The results of the test are very encouraging and show that the emblem may be made visible to an IR camera with the aid of thermal tapes, both during the day and at night. However, as in the visible band of the spectrum, the dimension of the emblem is all important. Moreover, the visibility of the red crosses in the last photograph was reduced owing to the fact that during the night of 2 to 3 November, dew covered the thermal tapes with a fine film of water.



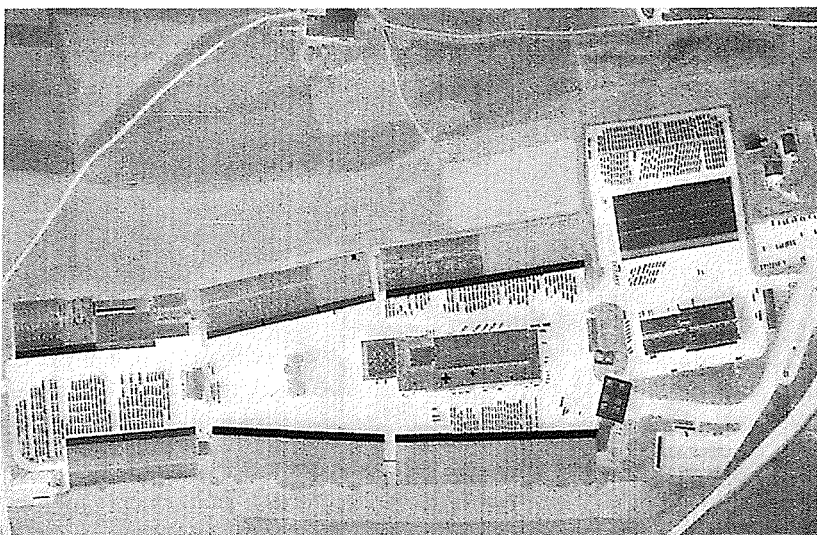
2 November 1995 at 4.10 p.m. (daylight). – Distance between aircraft and building: 100 m.  
The red crosses measuring 10 m × 10 m and 5 m × 5 m are clearly visible.  
The red crosses measuring 3 m × 3 m and 2 m × 2 m are not identifiable.

*Copyright: Swiss Air Force Dübendorf*



2 November 1995 at 6.50 p.m. (night-time). – Distance between aircraft and building: 100 m.  
The red crosses measuring 10 m × 10 m, 5 m × 5 m and 3 m × 3 m are clearly visible.  
The red cross measuring 2 m × 2 m is not identifiable.

*Copyright: Swiss Air Force Dübendorf*



2 November 1995 at 6.55 p.m. (night-time). – Distance between aircraft and building: 400 m.  
The red cross measuring 10 m × 10 m is identifiable.

The red crosses measuring 5 m × 5 m, 3 m × 3 m and 2 m × 2 m are unidentifiable.

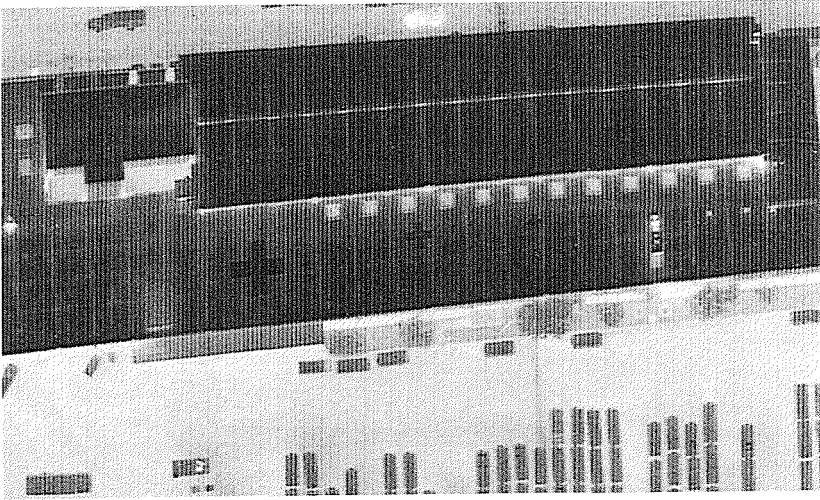
*Copyright: Swiss Air Force Dübendorf*

## Conclusions

The observation methods used by modern armed forces evolve and keep pace with new techniques. Such changes require additional means of identification in order to guarantee that medical units will be recognized at all times and in all weather conditions.

With regard to the visibility tests conducted by the ICRC, they showed that in many situations the use of thermal tapes made the red cross (and by analogy the red crescent) visible to thermal imaging (IR) cameras. This modern method significantly increases the probability of correct identification, both during the daytime and at night, by the parties to a conflict.

Thus, in conflict situations where armed forces use IR cameras, it has become essential for medical establishments and transports protected



3 November 1995 at 8.32 a.m. (daylight). – Distance between aircraft and building: 100 m.  
The red crosses measuring 10 m × 10 m and 5 m × 5 m are difficult to identify.  
The red crosses measuring 3 m × 3 m and 2 m × 2 m are not identifiable.

*Copyright: Swiss Air Force Dübendorf*

under the Geneva Conventions of 1949 to equip their distinctive emblems with thermal tapes.

*Dominique Loye*  
ICRC Technical Adviser

## ***In the Red Cross and Red Crescent World***

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*At the invitation of the ICRC, the annual meeting of National Society legal advisers and persons responsible for dissemination was held in Geneva from 21 to 23 October 1996. At this meeting lawyers from the ICRC and representatives of National Red Cross and Red Crescent Societies informally discussed the development of international humanitarian law and how best to promote knowledge of and compliance with that body of law.*

*Michael A Meyer, Head of International Law at the British Red Cross Society, spoke on the role played by National Societies in the implementation of international humanitarian law. The Review publishes the text of his remarks, with subtitles and footnotes added.*

### **The role of a National Society in the implementation of international humanitarian law — taking up the challenge!**

I was very pleased to be asked to speak about the role of the British Red Cross in the implementation of international humanitarian law at national level. Not only do I believe strongly that this subject is very important for all components of our Movement and is an integral part of our humanitarian mission, but it is also a part of my work which I find very enjoyable.

As we all know, each National Society works in particular circumstances, and my experience naturally reflects the situation in the United Kingdom. However, I hope that at least some of my comments will be relevant to most people here.

Like all good lawyers, I shall define what I mean by the role of a National Society in the implementation of international humanitarian law. To me this means the actions taken by a National Society, usually in cooperation with the national authorities, to translate into practical measures the State's obligations under international humanitarian law. This role may include action to help promote and develop humanitarian law,

and to carry out the tasks assigned to the National Society itself under humanitarian law.

The Movement's Statutes provide a basis for this role in Article 3, para. 2, which states that National Societies "disseminate and assist their governments in disseminating international humanitarian law; they take initiatives in this respect. They disseminate the principles and ideals of the Movement and assist those governments which also disseminate them. They also cooperate with their governments to ensure respect for international humanitarian law and to protect the red cross and red crescent emblems."

This special role in dissemination and implementation has been reaffirmed in the Recommendations of the Intergovernmental Group of Experts for the Protection of War Victims,<sup>1</sup> which were endorsed by the 26th International Conference of the Red Cross and Red Crescent, in its Resolution 1.<sup>2</sup> In my view, National Societies not only have a duty to take action in this field, but it is actually one of the few aspects of our work which makes us unique; and it can enhance our position in other areas, including fund-raising and publicity.

I turn now to the work of the British Red Cross in the implementation of international humanitarian law.

*Promoting ratification of international humanitarian treaties*

The Society was active in securing the ratification in 1957 of the 1949 Geneva Conventions and, more recently, played an instrumental role in ensuring the adoption of legislation enabling the United Kingdom to ratify the two Additional Protocols of 1977. The British government had expressed its intention to ratify the Additional Protocols at the Movement's statutory meetings, held in Birmingham in October 1993. Before it could do so, however, legislation was required to incorporate into domestic law certain provisions of Additional Protocol I; otherwise, following ratification, the United Kingdom would not be able to meet its international obligations under the Protocol at the national level.

All of us will understand that while international humanitarian law is very important to our Movement, it is not always given the same priority

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<sup>1</sup> *IRRC*, No. 310, January-February 1996, pp. 83-88.

<sup>2</sup> *Ibid.*, pp. 58-60.

by governments. For example, during periods of relative peace, economic matters or other legislation of day-to-day concern to the majority of the population may be seen as more urgent. And there is usually a great deal of business which needs to pass through Parliament in any session.

The British Red Cross had waited for many years for the necessary legislation to be adopted regarding the Protocols. In 1995, in advance of the 26th International Conference, the Society felt that it was now time to press for action. We asked one of our prominent supporters, a member of the House of Lords, to present a bill to enable the United Kingdom to ratify the Protocols. The bill was drafted by me in consultation with a firm of parliamentary draftsmen. This unusual procedure had the desired effect, prompting intensive negotiations with government officials which resulted in a number of amendments and thus Government support for the bill. At the same time, discussions were held with the main opposition parties to ensure their backing for the legislation. The bill passed rapidly through both houses of the British Parliament. This was a major success for the British Red Cross in promoting the implementation of humanitarian law, and was certainly one of the highlights of my Red Cross career. It clearly shows the influence that a National Society can have on the domestic legislative process.

The United Kingdom has yet to ratify the Additional Protocols. It is our understanding that the Government intends to do so, and our Society continues to raise the issue at regular intervals.

I am also in frequent contact with government officials on other humanitarian law matters. This has included urging the authorities to ratify the amended Protocol on anti-personnel mines and the new Protocol on blinding laser weapons, both additional to the 1980 Weapons Convention. For this purpose, the model instruments of ratification prepared by the ICRC have been very useful.

### *Working for dissemination*

Another aspect of promoting international humanitarian law is, of course, dissemination. Members of the armed forces and officials from relevant government departments attend our dissemination seminars as both speakers and participants. This is particularly important given the responsibility of the armed forces and other authorities for implementing this body of law, and their experience and expertise lend credibility to our message.

*Protecting the emblem and the name*

A very important part of our implementation work consists in protecting the red cross and red crescent emblems and the Movement's name. With the help of our volunteers, the British Red Cross monitors unauthorized use or misuse of the emblems and of the words "Red Cross" or "Red Crescent", throughout the United Kingdom. We have a long-standing procedure for dealing with such matters, agreed to by the relevant government departments and the police. The British Red Cross itself has an agreed procedure for regulating its own use of the emblems and names. I have been named by the government departments concerned and the Council of the British Red Cross as the controlling authority for the use by the British Red Cross of the Red Cross name and emblem. In addition, I am often consulted by government officials on the emblem and related matters.

*Contributing to the development of international humanitarian law*

Concerning the development of international humanitarian law, the British Red Cross supported the ICRC's efforts to achieve a prohibition on blinding laser weapons. The government was not greatly sympathetic at first, but ultimately took part in the adoption of a new Protocol covering such weapons. I do not pretend that the British Red Cross had an overriding effect on government policy, but because of our good contacts with government officials, we were able to lend credible support to the ICRC's efforts.

It should be made clear that the British Red Cross and the British government do not always share the same view. Our Society is wholly independent, in both legal and practical terms, and we are very willing to disagree as and when necessary. We also adhere strictly to the Movement's Fundamental Principles, and as such we take seriously our role as an auxiliary to the government in matters of international humanitarian law and other humanitarian concerns. We seek to be a realistic interlocutor with our government, rather than simply an adversary. We have developed a relationship of mutual trust and respect, and have found that this is the most effective means of promoting our humanitarian objectives.

The British Red Cross holds regular meetings with government officials to discuss international humanitarian law, most recently regarding the follow-up to the 26th International Conference of the Red Cross and Red Crescent. This is an opportunity rarely given to other organizations outside government. The British Red Cross does not always achieve its aims, but we are always taken seriously and listened to.

*Contacts with other National Societies and the ICRC*

The British Red Cross has always attached special value to its links with the ICRC. I have regular contact with the ICRC, in particular with the Legal Division and the new Advisory Service on International Humanitarian Law. The advice and assistance of our colleagues in Geneva are invaluable, and enhance our standing with our government. We value the open and frank exchange of views with the ICRC (such dialogue is crucial to the health and development of the Movement) and we seek to cooperate whenever we are able, with due regard to what is appropriate in the domestic context.

We also remain in close contact with colleagues from other National Societies. I believe that it is essential for all components of the Movement to work together in the area of implementing international humanitarian law, so fundamental to the Red Cross and Red Crescent, in order to achieve the maximum result for the victims. This includes providing support, where necessary, to operating National Societies in developing their own implementation and dissemination programmes.

In conclusion, I urge that we all seize the opportunity afforded by the 26th International Conference of the Red Cross and Red Crescent and its endorsement of the Recommendations of the Intergovernmental Group of Experts for the Protection of War Victims, in order to reaffirm the special role of the National Societies in the implementation and dissemination of international humanitarian law. By taking up this challenge, we will strengthen ourselves, individually and collectively, and by working together do much to enhance our credibility and effectiveness.

*Michael A Meyer*  
Head of International Law  
British Red Cross

### **Chemical Weapons Convention enters into force**

The *Convention on the prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction*, of 13 January 1993 (Chemical Weapons Convention - CWC) enters into force on 29 April 1997, following the deposit by Hungary on 31 October 1996 of the 65th instrument of ratification. This landmark Convention complements and reinforces the 1925 Geneva Protocol prohibiting the *use* of chemical and biological weapons<sup>1</sup> by also banning the development, production and stockpiling of chemical weapons — as well as their use — and requiring the destruction of existing stockpiles. The 1925 Geneva Protocol was adopted following a dramatic appeal against chemical warfare by the ICRC at the end of the First World War.<sup>2</sup> The Biological Weapons Convention, in force since 1975, has outlawed the development, production and stockpiling of these weapons.

The Chemical Weapons Convention, which was negotiated in Geneva from 1972 to 1992, was opened for signature in Paris in 1993. It has already attracted 160 States signatory, many more of which are expected to ratify the Convention. Upon its entry into force, a Conference of States Parties will be held and the Organization for the Prohibition of Chemical Weapons (OPCW) will be established in The Hague, Netherlands. The OPCW will be staffed by a secretariat and will be charged with receiving and analysing mandatory State reports on activities involving chemical agents which could pose a threat to the Convention's purposes. The secretariat and its teams of inspectors will be responsible both for conducting the obligatory routine and "challenge" inspections at chemical sites throughout the world and for monitoring the destruction of existing stockpiles.

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<sup>1</sup> Protocol for the prohibition of the use in war of asphyxiating, poisonous or other gases, and of bacteriological methods of warfare, of 17 June 1925.

<sup>2</sup> Reprinted in J. Mirimanoff, "The Red Cross and biological and chemical weapons", *IRRC*, No. 111, June 1970, pp. 301-302.

The Chemical and Biological Weapons Conventions reflect a growing awareness of the need to strengthen international humanitarian law norms prohibiting the *use* of particular weapons with additional measures to ensure that those same weapons are not developed, produced or stockpiled.

*Peter Herby*  
ICRC Legal Division

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## ***Geneva Conventions and Additional Protocols***

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### **The Republic of Chad accedes to the Additional Protocols**

On 17 January 1997 the Republic of Chad deposited an instrument of “ratification” of the Protocols additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of International Armed Conflicts (Protocol I) and Non-International Armed Conflicts (Protocol II), adopted in Geneva on 8 June 1977. The document was not accompanied by any declaration or reservation. Since the Republic of Chad did not sign the Protocols, the depositary State considers this document to be an instrument of accession.

Pursuant to their provisions, the Protocols will come into force for the Republic of Chad on 17 July 1997.

This accession brings to **147** the number of States party to Protocol I and to **139** those party to Protocol II.

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### **Recognition of the Red Crescent Society of Kyrgyzstan**

The International Committee of the Red Cross has officially recognized the Red Crescent Society of Kyrgyzstan. This recognition, which took effect on 19 March 1997, brings to 171 the number of National Societies that are members of the International Red Cross and Red Crescent Movement.

**Geneva Conventions for the protection of war victims  
of 12 August 1949  
and  
Additional Protocols of 8 June 1977  
  
Ratifications, accessions and successions  
  
as at 31 December 1996**

**State as at 31 December 1996**

States party to the 1949 Geneva Conventions	188
States party to Additional Protocol I	146
States having made the declaration under Article 90:	49
States party to Additional Protocol II	138

**Preliminary remarks**

The names of countries given in the following list may differ from the official names of States.

The dates indicated are those on which the Swiss Federal Department of Foreign Affairs received the official instrument from the State that was ratifying, acceding to or succeeding to the Conventions or Protocols or accepting the competence of the Commission provided for under Article 90 of Protocol I. They thus represent neither the date on which ratification, accession, succession or acceptance of the Commission was decided upon nor that on which the corresponding instrument was sent.

Except as mentioned in footnotes at the end of the tables, for all States the entry into force of the Conventions and of the Protocols occurs six months after the date given in the present document; for States which have made a declaration of succession, entry into force takes place retroactively, on the day of their accession to independence.

## Abbreviations

**R = ratification:** a treaty is generally open for signature for a certain time following the conference which has adopted it. However, a signature is not binding on a State unless it has been endorsed by ratification. The time limits having elapsed, the Conventions and the Protocols are no longer open for signature. As all signatory States of the Conventions have ratified them in the meantime, only the 1977 Protocols may be ratified by those signatory States which have not yet done so.

**A = accession:** instead of signing and then ratifying a treaty, a State may become party to it by the single act called accession.

**S = succession** (declaration of): a newly independent State may declare that it will abide by a treaty which was applicable to it prior to its independence. A State may also declare that it will provisionally abide by such treaties during the time it deems necessary to examine their texts carefully and to decide on accession or succession to some or all of the said treaties.

**R/D = reservation/declaration:** unilateral statement, however phrased or named, made by a State when ratifying, acceding or succeeding to a treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that State (provided that such statement is not incompatible with the object and purpose of the treaty).

**D90 = Declaration provided for under article 90 of Protocol I:** prior acceptance of the competence of the International Fact-Finding Commission.

	GENEVA CONVENTIONS	PROTOCOL I		PROTOCOL II
COUNTRY	R / A / S R/D	R / A / S R/D	D90	R / A / S R/D
Afghanistan	26.09.1956 R			
Albania	27.05.1957 R X	16.07.1993 A		16.07.1993 A
Algeria	20.06.1960 A	16.08.1989 A X	16.08.1989	16.08.1989 A
Andorra	17.09.1993 A			
Angola	20.09.1984 A X	20.09.1984 A X		
Antigua and Barbuda	06.10.1986 S	06.10.1986 A		06.10.1986 A
Argentina	18.09.1956 R	26.11.1986 A X	11.10.1996	26.11.1986 A X
Armenia	07.06.1993 A	07.06.1993 A		07.06.1993 A
Australia	14.10.1958 R X	21.06.1991 R X	23.09.1992	21.06.1991 R
Austria	27.08.1953 R	13.08.1982 R X	13.08.1982	13.08.1982 R X

**GENEVA CONVENTIONS FOR THE PROTECTION OF WAR VICTIMS**

	GENEVA CONVENTIONS		PROTOCOL I			PROTOCOL II	
COUNTRY	R / A / S	R/D	R / A / S	R/D	D90	R / A / S	R/D
Azerbaijan	01.06.1993	A					
Bahamas	11.07.1975	S	10.04.1980	A		10.04.1980	A
Bahrain	30.11.1971	A	30.10.1986	A		30.10.1986	A
Bangladesh	04.04.1972	S	08.09.1980	A		08.09.1980	A
Barbados	10.09.1968	S X	19.02.1990	A		19.02.1990	A
Belarus	03.08.1954	R X	23.10.1989	R	23.10.1989	23.10.1989	R
Belgium	03.09.1952	R	20.05.1986	R	27.03.1987	20.05.1986	R
Belize	29.06.1984	A	29.06.1984	A		29.06.1984	A
Benin	14.12.1961	S	28.05.1986	A		28.05.1986	A
Bhutan	10.01.1991	A					
Bolivia	10.12.1976	R	08.12.1983	A	10.08.1992	08.12.1983	A
Bosnia- Herzegovina	31.12.1992	S	31.12.1992	S	31.12.1992	31.12.1992	S
Botswana	29.03.1968	A	23.05.1979	A		23.05.1979	A
Brazil	29.06.1957	R	05.05.1992	A	23.11.1993	05.05.1992	A
Brunei							
Darussalam	14.10.1991	A	14.10.1991	A		14.10.1991	A
Bulgaria	22.07.1954	R X	26.09.1989	R	09.05.1994	26.09.1989	R
Burkina Faso	07.11.1961	S	20.10.1987	R		20.10.1987	R
Burundi	27.12.1971	S	10.06.1993	A		10.06.1993	A
Cambodia	08.12.1958	A					
Cameroon	16.09.1963	S	16.03.1984	A		16.03.1984	A
Canada	14.05.1965	R	20.11.1990	R X	20.11.1990	20.11.1990	R X
Cape Verde	11.05.1984	A	16.03.1995	A	16.03.1995	16.03.1995	A
Central African Republic	01.08.1966	S	17.07.1984	A		17.07.1984	A
Chad	05.08.1970	A					
Chile	12.10.1950	R	24.04.1991	R	24.04.1991	24.04.1991	R
China	28.12.1956	R X	14.09.1983	A X		14.09.1983	A
Colombia	08.11.1961	R	01.09.1993	A	17.04.1996	14.08.1995	A
Comoros	21.11.1985	A	21.11.1985	A		21.11.1985	A
Congo	04.02.1967	S	10.11.1983	A		10.11.1983	A
Costa Rica	15.10.1969	A	15.12.1983	A		15.12.1983	A
Côte d'Ivoire	28.12.1961	S	20.09.1989	R		20.09.1989	R
Croatia	11.05.1992	S	11.05.1992	S	11.05.1992	11.05.1992	S
Cuba	15.04.1954	R	25.11.1982	A			
Cyprus	23.05.1962	A	01.06.1979	R		18.03.1996	A
Czech Republic	05.02.1993	S X	05.02.1993	S	02.05.1995	05.02.1993	S
Denmark	27.06.1951	R	17.06.1982	R X	17.06.1982	17.06.1982	R
Djibouti	06.03.1978 <sup>1</sup>	S	08.04.1991	A		08.04.1991	A
Dominica	28.09.1981	S	25.04.1996	A		25.04.1996	A
Dominican Republic	22.01.1958	A	26.05.1994	A		26.05.1994	A
Ecuador	11.08.1954	R	10.04.1979	R		10.04.1979	R
Egypt	10.11.1952	R	09.10.1992	R X		09.10.1992	R X

## INTERNATIONAL REVIEW OF THE RED CROSS

	GENEVA CONVENTIONS	PROTOCOL I		PROTOCOL II
COUNTRY	R / A / S R/D	R / A / S R/D	D90	R / A / S R/D
El Salvador	17.06.1953 R	23.11.1978 R		23.11.1978 R
Equatorial Guinea	24.07.1986 A	24.07.1986 A		24.07.1986 A
Estonia	18.01.1993 A	18.01.1993 A		18.01.1993 A
Ethiopia	02.10.1969 R	08.04.1994 A		08.04.1994 A
Fiji	09.08.1971 S			
Finland	22.02.1955 R	07.08.1980 R X	07.08.1980	07.08.1980 R
France	28.06.1951 R			24.02.1984 <sup>2</sup> A X
Gabon	26.02.1965 S	08.04.1980 A		08.04.1980 A
Gambia	20.10.1966 S	12.01.1989 A		12.01.1989 A
Georgia	14.09.1993 A	14.09.1993 A		14.09.1993 A
Germany	03.09.1954 A X	14.02.1991 R X	14.02.1991	14.02.1991 R X
Ghana	02.08.1958 A	28.02.1978 <sup>3</sup> R		28.02.1978 <sup>4</sup> R
Greece	05.06.1956 R	31.03.1989 R		15.02.1993 A
Grenada	13.04.1981 S			
Guatemala	14.05.1952 R	19.10.1987 R		19.10.1987 R
Guinea	11.07.1984 A	11.07.1984 A	20.12.1993	11.07.1984 A
Guinea-Bissau	21.02.1974 A X	21.10.1986 A		21.10.1986 A
Guyana	22.07.1968 S	18.01.1988 A		18.01.1988 A
Haiti	11.04.1957 A			
Holy See	22.02.1951 R	21.11.1985 R X		21.11.1985 R X
Honduras	31.12.1965 A	16.02.1995 R		16.02.1995 R
Hungary	03.08.1954 R X	12.04.1989 R	23.09.1991	12.04.1989 R
Iceland	10.08.1965 A	10.04.1987 R X	10.04.1987	10.04.1987 R
India	09.11.1950 R			
Indonesia	30.09.1958 A			
Iran (Islamic Rep. of)	20.02.1957 R X			
Iraq	14.02.1956 A			
Ireland	27.09.1962 R			
Israel	06.07.1951 R X			
Italy	17.12.1951 R	27.02.1986 R X	27.02.1986	27.02.1986 R
Jamaica	20.07.1964 S	29.07.1986 A		29.07.1986 A
Japan	21.04.1953 A			
Jordan	29.05.1951 A	01.05.1979 R		01.05.1979 R
Kazakhstan	05.05.1992 S	05.05.1992 S		05.05.1992 S
Kenya	20.09.1966 A			
Kiribati	05.01.1989 S			
Korea (Dem. People's Rep.)	27.08.1957 A X	09.03.1988 A		
Korea (Republic of)	16.08.1966 <sup>5</sup> A X	15.01.1982 R X		15.01.1982 R
Kuwait	02.09.1967 A X	17.01.1985 A		17.01.1985 A
Kyrgyzstan	18.09.1992 S	18.09.1992 S		18.09.1992 S
Lao People's Dem. Rep.	29.10.1956 A	18.11.1980 R		18.11.1980 R

GENEVA CONVENTIONS FOR THE PROTECTION OF WAR VICTIMS

	GENEVA CONVENTIONS		PROTOCOL I			PROTOCOL II	
COUNTRY	R / A / S	R/D	R / A / S	R/D	D90	R / A / S	R/D
Latvia	24.12.1991	A	24.12.1991	A		24.12.1991	A
Lebanon	10.04.1951	R					
Lesotho	20.05.1968	S	20.05.1994	A		20.05.1994	A
Liberia	29.03.1954	A	30.06.1988	A		30.06.1988	A
Libyan Arab Jamahiriya	22.05.1956	A	07.06.1978	A		07.06.1978	A
Liechtenstein	21.09.1950	R	10.08.1989	R X	10.08.1989	10.08.1989	R X
Lithuania	03.10.1996	A					
Luxembourg	01.07.1953	R	29.08.1989	R	12.05.1993	29.08.1989	R
Macedonia	01.09.1993	S X	01.09.1993	S X	01.09.1993	01.09.1993	S
Madagascar	18.07.1963	S	08.05.1992	R	27.07.1993	08.05.1992	R
Malawi	05.01.1968	A	07.10.1991	A		07.10.1991	A
Malaysia	24.08.1962	A					
Maldives	18.06.1991	A	03.09.1991	A		03.09.1991	A
Mali	24.05.1965	A	08.02.1989	A		08.02.1989	A
Malta	22.08.1968	S	17.04.1989	A X	17.04.1989	17.04.1989	A X
Mauritania	30.10.1962	S	14.03.1980	A		14.03.1980	A
Mauritius	18.08.1970	S	22.03.1982	A		22.03.1982	A
Mexico	29.10.1952	R	10.03.1983	A			
Micronesia	19.09.1995	A	19.09.1995	A		19.09.1995	A
Moldova (Republic of)	24.05.1993	A	24.05.1993	A		24.05.1993	A
Monaco	05.07.1950	R					
Mongolia	20.12.1958	A	06.12.1995	R X	06.12.1995	06.12.1995	R
Morocco	26.07.1956	A					
Mozambique	14.03.1983	A	14.03.1983	A			
Myanmar	25.08.1992	A					
Namibia	22.08.1991 <sup>6</sup>	S	17.06.1994	A	21.07.1994	17.06.1994	A
Nepal	07.02.1964	A					
Netherlands	03.08.1954	R	26.06.1987	R X	26.06.1987	26.06.1987	R
New Zealand	02.05.1959	R X	08.02.1988	R X	08.02.1988	08.02.1988	R
Nicaragua	17.12.1953	R					
Niger	21.04.1964	S	08.06.1979	R		08.06.1979	R
Nigeria	20.06.1961	S	10.10.1988	A		10.10.1988	A
Norway	03.08.1951	R	14.12.1981	R	14.12.1981	14.12.1981	R
Oman	31.01.1974	A	29.03.1984	A X		29.03.1984	A X
Pakistan	12.06.1951	R X					
Palau	25.06.1996	A	25.06.1996	A		25.06.1996	A
Panama	10.02.1956	A	18.09.1995	R		18.09.1995	R
Papua New Guinea	26.05.1976	S					
Paraguay	23.10.1961	R	30.11.1990	A		30.11.1990	A
Peru	15.02.1956	R	14.07.1989	R		14.07.1989	R
Philippines	06.10.1952 <sup>7</sup>	R				11.12.1986	A
Poland	26.11.1954	R X	23.10.1991	R	02.10.1992	23.10.1991	R

INTERNATIONAL REVIEW OF THE RED CROSS

	GENEVA CONVENTIONS		PROTOCOL I			PROTOCOL II	
COUNTRY	R / A / S	R/D	R / A / S	R/D	D90	R / A / S	R/D
Portugal	14.03.1961	R X	27.05.1992	R	01.07.1994	27.05.1992	R
Qatar	15.10.1975	A	05.04.1988	A X	24.09.1991		
Romania	01.06.1954	R X	21.06.1990	R	31.05.1995	21.06.1990	R
Russian Federation	10.05.1954	R X	29.09.1989	R X	29.09.1989	29.09.1989	R X
Rwanda	05.05.1964	S	19.11.1984	A	08.07.1993	19.11.1984	A
Saint Kitts and Nevis	14.02.1986	S	14.02.1986	A		14.02.1986	A
Saint Lucia	18.09.1981	S	07.10.1982	A		07.10.1982	A
Saint Vincent Grenadines	01.04.1981	A	08.04.1983	A		08.04.1983	A
Samoa	23.08.1984	S	23.08.1984	A		23.08.1984	A
San Marino	29.08.1953	A	05.04.1994	R		05.04.1994	R
Sao Tome and Principe	21.05.1976	A	05.07.1996	A		05.07.1996	A
Saudi Arabia	18.05.1963	A	21.08.1987	A X			
Senegal	18.05.1963	S	07.05.1985	R		07.05.1985	R
Seychelles	08.11.1984	A	08.11.1984	A	22.05.1992	08.11.1984	A
Sierra Leone	10.06.1965	S	21.10.1986	A		21.10.1986	A
Singapore	27.04.1973	A					
Slovakia	02.04.1993	S X	02.04.1993	S	13.03.1995	02.04.1993	S
Slovenia	26.03.1992	S	26.03.1992	S	26.03.1992	26.03.1992	S
Solomon Islands	06.07.1981	S	19.09.1988	A		19.09.1988	A
Somalia	12.07.1962	A					
South Africa	31.03.1952	A	21.11.1995	A		21.11.1995	A
Spain	04.08.1952	R	21.04.1989	R X	21.04.1989	21.04.1989	R
Sri Lanka	28.02.1959 <sup>8</sup>	R					
Sudan	23.09.1957	A					
Suriname	13.10.1976	S X	16.12.1985	A		16.12.1985	A
Swaziland	28.06.1973	A	02.11.1995	A		02.11.1995	A
Sweden	28.12.1953	R	31.08.1979	R X	31.08.1979	31.08.1979	R
Switzerland	31.03.1950 <sup>9</sup>	R	17.02.1982	R X	17.02.1982	17.02.1982	R
Syrian Arab Republic	02.11.1953	R	14.11.1983	A X			
Tajikistan	13.01.1993	S	13.01.1993	S		13.01.1993	S
Tanzania (United Rep. of)	12.12.1962	S	15.02.1983	A		15.02.1983	A
Thailand	29.12.1954	A					
Togo	06.01.1962	S	21.06.1984	R	21.11.1991	21.06.1984	R
Tonga	13.04.1978	S					
Trinidad and Tobago	24.09.1963 <sup>10</sup>	A					
Tunisia	04.05.1957	A	09.08.1979	R		09.08.1979	R
Turkey	10.02.1954	R					
Turkmenistan	10.04.1992	S	10.04.1992	S		10.04.1992	S

**GENEVA CONVENTIONS FOR THE PROTECTION OF WAR VICTIMS**

	GENEVA CONVENTIONS	PROTOCOL I		PROTOCOL II
COUNTRY	R / A / S R/D	R / A / S R/D	D90	R / A / S R/D
Tuvalu	19.02.1981 S			
Uganda	18.05.1964 A	13.03.1991 A		13.03.1991 A
Ukraine	03.08.1954 R X	25.01.1990 R	25.01.1990	25.01.1990 R
United Arab Emirates	10.05.1972 A	09.03.1983 A X	06.03.1992	09.03.1983 A X
United Kingdom	23.09.1957 R X			
United States of America	02.08.1955 R X			
Uruguay	05.03.1969 R X	13.12.1985 A	17.07.1990	13.12.1985 A
Uzbekistan	08.10.1993 A	08.10.1993 A		08.10.1993 A
Vanuatu	27.10.1982 A	28.02.1985 A		28.02.1985 A
Venezuela	13.02.1956 R			
Viet Nam	28.06.1957 A X	19.10.1981 R		
Yemen	16.07.1970 A X	17.04.1990 R		17.04.1990 R
Yugoslavia	21.04.1950 R X	11.06.1979 R X		11.06.1979 R
Zaire	24.02.1961 S	03.06.1982 A		
Zambia	19.10.1966 A	04.05.1995 A		04.05.1995 A
Zimbabwe	07.03.1983 A	19.10.1992 A		19.10.1992 A

**Palestine**

On 21 June 1989, the Swiss Federal Department of Foreign Affairs received a letter from the Permanent Observer of Palestine to the United Nations Office at Geneva informing the Swiss Federal Council "that the Executive Committee of the Palestine Liberation Organization, entrusted with the functions of the Government of the State of Palestine by decision of the Palestine National Council, decided, on 4 May 1989, to adhere to the Four Geneva Conventions of 12 August 1949 and the two Protocols additional thereto".

On 13 September 1989, the Swiss Federal Council informed the States that it was not in a position to decide whether the letter constituted an instrument of accession, "due to the uncertainty within the international community as to the existence or non-existence of a State of Palestine".

Djibouti's declaration of succession in respect of the First Convention was dated 26.01.78.

On accession to Protocol II, France made a communication concerning Protocol I.

Entry into force on 07.12.78.

Entry into force on 07.12.78.

Entered into force on 23.09.66, the Republic of Korea having invoked Art.62/61/141/157 common respectively to the First, Second, Third and Fourth Conventions (immediate effect).

- <sup>6</sup> An instrument of accession to the Geneva Conventions and their Additional Protocols was deposited by the United Nations Council for Namibia on 18.10.83. In an instrument deposited on 22.08.91, Namibia declared its succession to the Geneva Conventions, which were previously applicable pursuant to South Africa's accession on 31.03.52.
- <sup>7</sup> The First Geneva Convention was ratified on 7.03.1951.
- <sup>8</sup> Accession to the Fourth Geneva Convention on 23 February 1959 (Ceylon had signed only the First, Second, and Third Conventions).
- <sup>9</sup> Entry into force on 21.10.1950.
- <sup>10</sup> Accession to the First Geneva Convention on 17.03.1963.

Centre for legal documentation  
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## **International Fact-Finding Commission**

### **Election of new members**

In order to guarantee the protection of victims of armed conflict, Article 90 of Protocol I additional to the 1949 Geneva Conventions provides for the establishment of an International Fact-Finding Commission, which was officially constituted in 1991. The Commission is a permanent body and an important mechanism in ensuring implementation of and respect for international humanitarian law in times of armed conflict.

#### *Powers and functioning of the Commission*

The Commission is competent to:

- (1) enquire into any facts alleged to be a grave breach or other serious violation of the Geneva Conventions or Protocol I;
- (2) facilitate, through its good offices, the restoration of an attitude of respect for the Conventions and Protocol I.

While the Geneva Conventions and Protocol I are applicable to international armed conflicts, the Commission has expressed its willingness to investigate alleged violations of humanitarian law committed in non-international armed conflicts, provided that the parties involved consent to its enquiry.

#### *Membership of the Commission*

The Commission is made up of 15 members elected by the States that have recognized its competence.<sup>1</sup> Its members serve in their personal

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<sup>1</sup> At 28 February 1997, 49 States had recognized the Commission's competence.

capacity and do not represent the States from which they originate. Each of them must be of high moral standing and acknowledged impartiality. Elections take place every five years, and the States are required to ensure equitable geographical representation within the Commission.

The new members were elected on 29 October 1996, and their term of office began following the meeting of the Commission on 24 and 25 February 1997. Their names are as follows:

Professor Luigi Condorelli, *Italy*, Law Faculty, University of Geneva

Professor Ghalib Djilali, *Algeria*, surgeon, University of Algiers (Vice-President)

Dr Marcel Dubouloz, *Switzerland*, principal consulting physician, Geneva

Professor Roman Jasica, *Poland*, Professor Emeritus of public international law and international humanitarian law, University of Silesia

Professor Frits Kalshoven, *Netherlands*, former naval officer, Professor Emeritus, University of Leyden (President)

Sir Kenneth Keith, *New Zealand*, QC, judge, New Zealand Court of Appeal, Wellington (Vice-President)

Dr Valeri Knjasev, *Russian Federation*, former naval officer, Adviser to the Ministry of Foreign Affairs, Permanent Mission of the Russian Federation to the IMO in London

Ambassador Erich Kussbach, *Austria*

Dr Pavel Liska, *Czech Republic*, Director, International Law Division, Foreign Affairs Section, Ministry of Defence, Prague

Mr Mihnea Motoc, *Romania*, Deputy Director, Human Rights Directorate, Ministry of Foreign Affairs, Bucharest

Professor Paulo Sergio Pinheiro, *Brazil*, political analyst and legal expert, São Paulo (Vice-President)

Ambassador Arpad Prandler, *Hungary*, legal adviser, Ministry of Foreign Affairs, Budapest

Mr Hernán Salinas Burgos, *Chile*, Deputy Director for Legal Affairs, Ministry of Foreign Affairs, Santiago

Dr Carl-Ivar Skarstedt, *Sweden*, former President of the Court of Appeal

Dr Santiago Torres Bernárdez, *Spain*, *ad hoc* judge and former registrar, International Court of Justice, Madrid

## **Books and Reviews**

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### **The philosophical and religious dimension of humanitarian action**

*Reflections on two philosophical essays*

**Luc Ferry, *L'Homme-Dieu ou le sens de la vie*, an essay, Éditions Bernard Grasset, Paris, 1996, 250 pp.**

**Alain Finkielkraut, *L'Humanité perdue, Essai sur le XX<sup>e</sup> siècle*, Éditions du Seuil, Paris, 1996, 174 pp.**

Humanitarian activities, humanitarian assistance, humanitarian ethics, humanitarian strategy, humanitarian diplomacy, even humanitarian disaster (which is a nonsense)... All these concepts, nowadays often grouped together under the term "humanitarian action", have generated much literature in recent years. Legal experts, politicians, physicians, journalists, members of non-governmental organizations, theoreticians and practitioners have used critical analysis or first-hand accounts of specific cases to get a better grasp of humanitarian action so as to discover its underlying meaning, its strengths and limitations, and identify its present trends. The *Review* has reported on a number of these studies.<sup>1</sup>

The humanitarian phenomenon is a developing one; judging by the discussions it provokes within the churches and by the conferences and

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<sup>1</sup> See its reviews of: Rony Brauman, *Le dilemme humanitaire. Entretien avec Philippe Petit*, in *IRRC*, No. 312, May-June 1996, pp. 399-402; *Dérives humanitaires, États d'urgence et droit d'ingérence*, *IRRC*, No. 305, March-April 1995, pp. 233-236; Michèle Mercier, *Crimes sans châiment. L'action humanitaire en ex-Yougoslavie (1991-1993)*, in *IRRC*, No. 301, July-August 1994, pp. 401-403; Bernard Kouchner, *Le malheur des autres*, and Xavier Emmanuelli, *Les prédateurs de l'action humanitaire*, in *IRRC*, No. 288, May-June 1992, pp. 316-318; Jean-Christophe Rufin, *Le piège - Quand l'aide humanitaire remplace la guerre*, in *IRRC*, No. 257, March-April 1987, pp. 233-235; Bernard Kouchner, *Charité-Business — l'argent et le rêve*, in *IRRC*, No. 254, September-October 1986, pp. 303-306.

philosophical works devoted to it, it appears to have recently acquired a philosophical and religious dimension.

Is it not well on the way to becoming mankind's new religion? Is not the humanitarian idea supplanting the precepts of traditional religions and becoming the new law of universal love? Has it not become the ultimate way of finding a purpose in life? Or is it perhaps the redeeming feature of a century that produced the horrors of concentration camps? In short, by exemplifying the spiritual adventure of the late 20th century and turning into a religious ethic, will humanitarian action bear out the prediction attributed to André Malraux that either the 21st century will be a religious one, or it will not exist at all?

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In his latest book, entitled "L'Homme-Dieu ou le sens de la vie", Luc Ferry, author of many prominent works on philosophy and current chairman of the Programmes Committee at the French Ministry of National Education, attempts to answer these fundamental questions. His argument is based on the three following considerations:

- The relative decline of religion in the Christian Western world and the disappearance of ideologies which preserved the sense of things sacred within the community have obscured the question of the meaning of life, especially in an age marked by the pursuit of profit, wealth, fame and material well-being.
- The gains made by secularism and democracy, a legacy of the Age of Enlightenment, and the influence of thinkers such as Nietzsche and Weber have led to a gradual breakaway from religion (especially from its dogma and edicts) and to the creation of a moral code on a human scale, one "where people do not need religion to make them honest and charitable, and where they do not need to believe in God so as to do their duty".<sup>2</sup>\*
- Nevertheless the author acknowledges that, like the traditional Christian religions, this lay morality does not fulfil the need for transcen-

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<sup>2</sup> Ferry, p. 39.

\* All quotations are ICRC translations.

dence and ideals superior to life, as evidenced by the existence of other forms of spirituality, re-emergence of cults and sects, rediscovery of Buddhism, etc.

How does Ferry use the above points to interpret this call for a higher authority that some media have called a “thirst for God”?<sup>3</sup>

In his view, man cannot live without transcendence if he wishes to give some meaning to the experiences of life, to suffering, death, love, good and evil. But that transcendence — and this is where the novelty lies — no longer comes from an all-powerful God, nor is it deduced from a revelation. It comes from man himself. Modern humanism gives rise to a genuine spirituality that is rooted in man’s nature. From this affirmation Ferry develops the modern question of the meaning of life, using a two-fold approach.

The first, which he calls “humanization of the divine”, shows that over centuries the content of the Christian revelation has become humanized. The secular movement has gained considerable ground in the democratic countries of Europe, and Catholics in particular increasingly subject the Pope’s edicts to critical scrutiny, calling for a religion closer to man. While preserving the sense of transcendence, Christians increasingly reject traditional dogma in favour of the ideology of human rights.

This thesis is contested by Pope John Paul II who in his encyclical *The Splendour of Truth*<sup>4</sup> reaffirms the impossibility of doubting the existence of the ultimate religious basis of moral standards, and proclaims that truth is not established by human beings but by divine law. Accepting freedom of conscience as the sole criterion of truth would be tantamount to denying that divine revelation possesses a specific moral content, one that is permanently and universally valid.

Ferry recognizes that the Pope’s position is legitimate but cannot agree with it because of the prohibitions contained both in the encyclical and in the teachings of the Catholic Church. He believes that freedom of conscience, even for someone of Christian faith, cannot be reconciled with what is forbidden. Modern ethics can no longer accept the doctrine of duty. Christianity no longer has a monopoly on respect for the human being,

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<sup>3</sup> “Soif de Dieu” is the title of *Le Nouvel Observateur*’s recent report on the subject, Special Report, No. 28, n.d. (1996).

<sup>4</sup> “Veritatis Splendor” (The Splendour of Truth), 1993.

on concern for one's fellows, for their dignity and suffering. Does one even need to be a believer in order to adopt the human rights philosophy? Consequently, Christian ethics might be viewed simply as a measure of religious belief enhancing the ideology of human rights.

The author feels closer to the German theologian Eugen Drewermann, who in his attempt to reinterpret the Gospels<sup>5</sup> tries to humanize the divine by reconciling religion with psychoanalysis and humanism with spirituality — in a word, by bringing religion nearer to man.

Ferry finds a similar development in the treatment of the problem of evil. The traditional Church affirms that the devil really exists. Rousseau and other lay thinkers counter this with their belief in human responsibility, while the humanities of our time secularize evil, holding that it does not exist as such but is the product of a system or context or social class, or of the family, and can be determined by genes and hormones! Does this mean that human beings are no longer responsible for evil? This is a particularly difficult question — can we simply dismiss as the victim of a system someone who deliberately tortures another or orders a village to be razed to the ground? According to Ferry, if we accept that man is no longer responsible for the evil he commits, then how can we set off humanitarian activities in the broad sense of the term against actions that we consider inhumane? “If man is relieved of responsibility for doing evil, shouldn’t he also be relieved of responsibility for doing good?” Is this the dilemma of free will? The author does not settle the age-old controversy about the mystery of evil; he merely considers that moral good is inseparable from the possibility of evil, and that man can try to humanize evil even if he is aware that mankind will never get rid of it.

How can evil be resisted? Can lay ethics muster strength enough to fight it? Ferry opts for “making human ways divine”, an approach which uses the humanitarian ideal to justify and strengthen man’s commitment to doing good.

To illustrate the second part of his argument, Ferry stresses the thirst for ethics that characterizes our times and manifests itself in the proliferation of humanitarian organizations and their unceasing fight for human rights and against racism and social exclusion. The ethics behind these organizations always entail the idea of sacrifice, but Ferry shows that lay ethics strengthen the idea of duty in the sense that self-sacrifice is no

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<sup>5</sup> Eugen Drewermann, *Dein Name ist wie der Geschmack des Lebens*, Herder, Freiburg im Breisgau/Basel, 2nd ed., 1992.

longer made for God or country or any ideology, but is “freely accepted and felt to be an inner need.”<sup>6</sup> Devotion finds its sole source in the individual, and sacrifice, which is proof of one’s concern for others, acts as an essential counterpoise to concern for one’s own self. In support of his argument the author shows that over centuries the concept of love has changed. Once limited to the concept of divine love, it has now become humanized so far as to reconcile selfishness and altruism. Having been influenced by democratic ideas, which affirm that there is no intrinsic difference between human beings, man cannot remain indifferent to the misfortunes of others.

In Ferry’s view, therefore, humanitarian activities bear witness to a new aspiration, one that is quite distinct from traditional forms of charity and which expresses the need for solidarity with the entire human race, especially since the identity and integrity of modern man are increasingly under threat. Not only because genocide is so much more frequent, conflicts more numerous and violence on the increase, says the author, but also because of the serious threat of genetic manipulation which could transform the human species. This is why humanitarian action, in which believers and atheists alike take part, has become the primary moral concern of our time.

Alain Finkelkraut, world-renowned philosopher, shares this view. Surveying the 20th century in his book *L’Humanité perdue*, he sees humanitarian action as one way of making amends for the misdeeds of a century that allowed concentration camps and made the very idea of humanity a murderous one.<sup>7</sup>

Remarkably, both Ferry and Finkelkraut mention Henry Dunant and the foundation of the Red Cross, the first recognized major example of lay humanitarian endeavour. Both stress the exceptional scope of the Red Cross ideal and regard as especially important the idea that all victims should be treated with impartiality. Human beings, especially when in distress, are the focus of a new religion, that of humane conduct.

Both authors also agree in indicating the obstacles to universal application of the principles of humanity, impartiality and neutrality. How can this be achieved when every day the gap between the ideal and the facts

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<sup>6</sup> Ferry, p. 122.

<sup>7</sup> We have focused in particular on Chapter 5, “La réparation humanitaire”.

widens visibly? Too many disasters breed indifference, and the overabundance of information increases it.

Ferry quotes examples to show that charitable activities given extensive media coverage have become the most visible symptom of a society greedy for entertainment, one that it is good form to criticize in political and even in humanitarian circles. Nevertheless, he regards media coverage of humanitarian activities as a good thing rather than a bad one, if only because it provides information and spurs public opinion into action.

Another widespread criticism is that humanitarian action appeals to the emotions rather than the intellect, to the heart rather than the mind. "Could humanitarian action be a mild form of fascism?"<sup>8</sup>

Ferry believes that it is precisely because the idea of humanitarian action is derived from the Declaration of the Rights of Man, which is universal in scope, that it should consider only victims in the abstract, without any connection with their roots in the community. By secularizing charity, humanitarian action extends it beyond traditional areas of solidarity.

The international operation in Somalia is evidence of this; there were no shared community ties between the people of the Western world and the population of Somalia. The operation was carried out as a result of pressure exerted by public opinion, shocked by what it saw, and in spite of all the delays and mistakes of the military, it managed to save hundreds of thousands of lives.

Finkelkraut, like Ferry, stresses that humanitarian workers today do not differentiate between one wounded person and another. They follow their immediate instinct, which comes from the heart. "From now on the heart prevails over history and emotion resumes its proper place."<sup>9</sup>

If humanitarian workers are duty-bound to help victims without making any distinction between them, should they also maintain strict neutrality in their relations with persons responsible for conflicts and violence? Finkelkraut points out an ambiguity in international humanitarian law which imposes restrictions on national sovereignty but depends on the goodwill of States for its application. He also recalls that in 1942

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<sup>8</sup> Ferry, p. 195.

<sup>9</sup> Finkelkraut, p. 126.

the ICRC chose to say nothing about Nazi concentration camps so as not to jeopardize its help to prisoners of war. He contrasts the attitude of the ICRC with that of the French doctors working in Biafra in 1968, who decided to speak out and followed the example of Solferino by proclaiming in a charter that for humanitarian workers only the interest of the victims mattered, and that they could therefore voluntarily break all the rules when these were being applied to the detriment of fellow human beings. Finkelkraut considers that the Biafra doctors were still respecting neutrality (sic) when they proclaimed that they were duty-bound, and had a right, to come to the aid of all victims, whatever the ideology of their oppressors. He adds, however, that today it is no longer possible to condone appallingly inhumane acts perpetrated for reasons of State, nor to accept evil in the name of the superior interests of mankind. To quote Lévinas, "Justifying my neighbour's suffering is the source of all immorality."<sup>10</sup>

This is the crux of a decades-old debate — can one help people while condemning their conduct? Can one infringe the principle of neutrality and still be credible? Does this not lead back to the eternal confusion between impartiality and neutrality?

Ferry also points out that humanitarian action is criticized as being a means of diverting citizens from issues that really need to be addressed, and that by combating the effects rather than the causes of crises it may well prolong privations. In the field, States use it as an excuse for inaction, as in Bosnia-Herzegovina. State humanitarianism, which is ineffective, undermines and discredits private humanitarian efforts. Intervention on humanitarian grounds may be in keeping with universally applied humanitarian principles, but in every conflict situation it entails the risk of a return to colonialism, and any intervention it claims to justify is the result of arbitrary decisions.

While not openly taking sides for or against the right of intervention on humanitarian grounds, Ferry is against doing away with humanitarian diplomacy and going back to old-style diplomacy. It would not be true to claim that in Bosnia, for example, European States would have intervened more forcefully had there been no humanitarian activities under way, and that it was because of these that they said nothing for so long.

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<sup>10</sup> Lévinas, "La souffrance inutile", in *Entre nous, Essais sur le Penser-à-l'autre*, Grasset, 1991, p. 116, quoted by Finkelkraut, pp. 125-126.

Ferry recognizes that in the end the great difficulty lies in sorting out the relations between politics and humanitarian action. Combining them would be absurd, and in practice do harm; self-serving initiatives by governments would endanger private organizations and this is why, he stresses, “the Red Cross has until now upheld the principle of neutrality.”<sup>11</sup> Keeping them completely separate would relegate politics to the practice of cynicism, and morality to the private sector. The two have to be linked in some way, however, because “although humanitarian action is not a matter of politics, in a democratic system politics cannot disregard humanitarian matters.”<sup>12</sup> Political leaders must therefore take into consideration the fact that humanitarian action is the only answer to the evil ingrained in human nature: “Fighting evil and other people’s misfortunes, and for that purpose going at the risk of one’s life to far-off lands where human folly has at least the merit of providing a temporary escape from the monotony of everyday life — isn’t that the quintessence of humanitarian Utopia, in spite of all that has been said against it?”<sup>13</sup>

Like Rony Brauman<sup>14</sup>, Ferry believes that humanitarian workers are the last privileged few of modern times, because they have managed to give their lives a purpose.

Ferry obviously believes that human beings are sacred, that they have somehow been made divine, and in his conclusion he therefore elevates the humanitarian ideal into a religion of man-God. He lays down the premises of a “transcendental” humanism, a lay spirituality taking the place of traditional religions and hard-line materialism. Man made sacred is the starting point and the ultimate goal of a humanistic approach that sees love, especially the love of one’s fellow human beings, as the true meaning of life.

Finkelkraut does not share Ferry’s idealistic vision. Humanitarian workers caring for the sick and wounded are not interested in who these are, what they represent or why they are being persecuted. All that matters is saving lives. Solidarity thus turns into mothering on a huge scale, but humanitarian action is absent from the upheavals and tensions that precede

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<sup>11</sup> Ferry, p. 201.

<sup>12</sup> Ferry, p. 202.

<sup>13</sup> Ferry, p. 203.

<sup>14</sup> Rony Brauman, *Le dilemme humanitaire. Entretien avec Philippe Petit*, Éditions Textuel, Paris, 1996, quoted by Ferry, p. 205.

disasters. In this respect, Finkelkraut believes humanitarian action to be simplistic.

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If we were to cast a critical glance at these two books, we would first of all note that this search for the meaning of life, for a moral frame of reference, and this ferment of ideas about humanitarian ideals, are essentially Western phenomena. The real victims of the "disenchantment with the world" are, says Max Weber, to be found mainly in the Christian Western world, particularly among European Catholics. As Jean Daniel says, "neither the Muslims in the Western world, nor the Turks, Moroccans or migrants, nor the Jews anywhere, nor even the majority of American Protestants, appear to be in desperate search of their lost frames of reference."<sup>15</sup> Things should be put in perspective, and generalizations should be avoided.

Humanitarian action that Ferry sees elevated to the status of a new religion is exclusively a lay movement — this is an express condition of its universality — and is completely neutral. But it is also a concept that turns love into something sacred, and in this it is close to Christian love. Ferry himself recognizes that modern humanism draws its strength from the ideal of Christian love. This "revamped" humanistic approach therefore does not reject altogether the ideals which have been promoted by the great religions of the world for thousands of years. Is not Ferry's humanitarian ideal in fact the Christian ideal rid of its dogmas, prohibitions and constraints, and therefore easier to propagate because it is more readily accessible? The question remains whether a lay spirituality based on human rights can command unanimous approval, given the interpretations, deviations and dysfunctions to which human rights are subject. And how would other cultures and religions regard the Christian values of solidarity and brotherhood *once these were divested of their religious dimension?*

Both Finkelkraut and Ferry praise humanitarian organizations for denouncing scandals and rehabilitating victims, but what bothers Finkelkraut is that humanitarian action confines itself to caring for victims and takes no interest in the causes and effects of scourges. Ac-

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<sup>15</sup> Jean Daniel, "Le seul bagage qui vaille ...", *Le Nouvel Observateur*, *op. cit.* (footnote 3).

according to him, the humanitarian effort needs bloodshed to prompt it into action, it feeds on human distress — a phenomenon which he describes as a sentimental reaction to distress<sup>16</sup>. This statement seems far too sweeping and even inaccurate. Ferry, for his part, fully understands that humanitarian assistance cannot be limited to emergency situations, that it should also try to alleviate the causes of suffering and to repair the harm done, and at any rate find others to take over and ensure the rehabilitation of the victims and the subsequent development of their communities.

Many governmental and non-governmental international organizations — International Red Cross included — have been pursuing this line of action for decades now; as we know, many preventive mechanisms have been introduced before, during and after conflicts, with varying degrees of success. On the other hand, coordination between the organizations concerned, between decision-makers and those taking action, has often yielded favourable results.

All these are valid arguments, but do not suffice to settle the problem of relations between politics and humanitarian action. Finkelkraut tries to explain what he means by the simplistic approach of the latter. In his view, humanitarian initiatives relieve politicians of responsibility by allowing them to “engage in narcissistic first aid instead of resolving the difficult issue of how to help (...) to make the world a place fit to live in for these beings, all alike and yet all different, who comprise mankind.”<sup>17</sup>

But who is to blame? Political leaders, who because of their weaknesses and mistakes have unloaded their responsibilities onto the humanitarian sector, indirectly causing its great expansion, with the help of the media? Or the humanitarian organizations, which can at best patch things up, mainly for lack of funds? Some people, however, look upon these organizations as the last hope of solving the great problems of our times. How can political and humanitarian affairs be “linked together”, as Ferry so imperiously recommends? Which of the two, the public sector or the private one, is better equipped to take the initiative in humanitarian matters?

There is no answer to any of those questions, all of them of crucial importance to the future of humanitarian action. The influential ideologies are no more, and the balance between the great Powers has disappeared;

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<sup>16</sup> Finkelkraut, p. 134.

<sup>17</sup> Finkelkraut, p. 136.

this perhaps explains the shortcomings of the international community. But how can one reasonably believe that humanitarian action, now ennobled as the religion of love, can by itself reconcile antagonists, overcome wilful omissions, banish doubt, ease people's anguish, and crush evil?

For the time being, in Kundera's words, "Man proceeds in the fog."<sup>18</sup>

Both of these outstanding essays raise fundamental questions about the nature and the future of humanitarian action. Ferry's utopian conclusions and Finkelkraut's pessimistic ones leave many questions unanswered, and some of their assertions are not wholly convincing. Both authors, however, must be given credit for putting forward arguments that go far beyond anything offered on this vast subject up until now. Their opinions and questions are a powerful incentive for us to continue reflecting on the meaning of life, the problem of evil and the future of the humanitarian ideal; they also serve as a reminder that we should not slacken our efforts to adapt humanitarian action to the challenges facing us on the threshold of a new millennium.

*Jacques Meurant*

Former Editor of the  
International Review of the Red Cross

**Mario Bettati, *Le droit d'ingérence. Mutation de l'ordre international*, Éditions Odile Jacob, Paris, 1996, 384 pp.**

**Alain Pellet (éd.), *Droit d'ingérence ou devoir d'assistance humanitaire?*, Problèmes politiques et sociaux, Nos. 758-759, December 1995, La Documentation française, Paris, 136 pp.**

Advocates of the "right of intervention" see evidence of the success of their proposals in the adoption by the United Nations General Assembly of resolutions 43/131 (1988) and 45/100 (1990) on "humanitarian assistance to victims of natural disasters and similar emergency situations".

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<sup>18</sup> Milan Kundera, *Testaments Betrayed*, Faber & Faber, London, 1996, p. 240, quoted by Finkelkraut, p. 134.

The excellent compilation by Professor Pellet, who emphasizes the largely French nature of such a “right”, contains about 60 texts on the subject (UN resolutions, international agreements, commentaries). It advises less optimism and cautions against the too-ready affirmation that the recognized duty to “intervene” heralds a new and decisive stage in international humanitarian law.

Indeed, some ten years after the debate around this concept began, no new right has come into being. While it is true that humanitarian issues are referred to and international humanitarian law invoked much more frequently, this does not mean that those issues are better understood or that the law — which Professor Bettati describes as “traditional” — is complied with more faithfully. In his book the author, whose role in the debate on intervention is well known, provides a summary of and expands on his initiatives and legal interpretations. His criticisms of “traditional” humanitarian law (and at the same time of the ICRC) are essentially of two kinds: first, that the law pays too much attention to States and to respect for their sovereignty; secondly, that humanitarian action based on the law and on the principle of neutrality favours discretion and persuasion to the detriment, in both cases, of free access by aid organizations to victims.

It remains to be seen whether the “combination of intervention plus eyewitness accounts” provides better results, both on a global level and in the long term. Reference has already been made to the “false novelty” (Ch. Zorgbibe) of the right of intervention and to the paradoxical attempts, through the UN, to give legal expression to such a right; at the same time, it was considered that “Red Cross law” showed excessive respect for State sovereignty. Two other aberrations of this right of intervention, which has been made much of by the media, should be mentioned: first, its contribution to the *politicization* and *militarization* of humanitarian law (whereby the law is harnessed by States for use in conducting their foreign policy — including by military means); secondly, and above all, the *denaturalization of humanitarian action* as a truly neutral and impartial undertaking. These aberrations have made humanitarian players the target of new threats (humanitarian action is fought on the ground by various parties which, as we have seen, can go so far as to murder aid workers in order to put an end to what is perceived as foreign intervention).

One final criticism: given the new dimensions of today’s so-called “anarchic” conflicts, the proposed right of intervention — which is supposed to stand in opposition to State sovereignty — is clearly obsolete: the State no longer exists, or certainly not in its previous form. In these circumstances,

how can the "new victims" be assured of receiving the protection and assistance they need? The views of Professor Bettati, who generalizes the concept of intervention by applying it to any number of cases ("subtractive intervention", "deterrent intervention", "preventive anti-drugs intervention") and thereby only generates confusion, are in this case of little use. Even if it has some shortcomings (due less to its formulation than to States' unwillingness to comply fully with its provisions), "traditional" international humanitarian law seems better able to meet the need for humane relations among people than do the falsely novel proposals made by Professor Bettati. It is therefore in support of that law that I should like to reiterate the judicious phrase used by René Cassin in 1947, which the author quotes at the beginning of his work: "In any case, humanity's right to supervise the relations between the State and the individual must be affirmed".<sup>1</sup> Such a requirement, which is inherent in international human rights law, is also applicable in the case of international humanitarian law.

*Jean-Luc Blondel*

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**Tathiana Flores Acuña, *The United Nations Mission in El Salvador: A humanitarian law perspective*, Nijhoff Law Specials, Vol. 14, Kluwer Law International, The Hague/London/Boston, 1995, 253 pp.**

The value of this book lies both in the topicality of its subject and in its innovative approach to the study of international humanitarian law. Based on the author's Ph.D. thesis, it draws a number of lessons from the conflict in El Salvador, a case that is of particular importance in that field of law since it was the first internal conflict in which 1977 Additional Protocol II supplementary to Article 3 common to the 1949 Geneva Conventions was applied.

Tathiana Flores Acuña sought to examine the activities of the United Nations Observer Mission in El Salvador (ONUSAL) in terms of the

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<sup>1</sup> ICRC translation.

implementation of international humanitarian law. As the UN's first attempt to mediate the settlement of a non-international armed conflict, this mission played a substantial role in reducing the incidence of human rights violations and breaches of that law.

The deployment of ONUSAL throughout the territory of El Salvador, and the broad powers that were conferred on it, helped attenuate the consequences of the conflict and, to a certain extent, eased the suffering of its many victims; at the same time, the political activities which ONUSAL engaged in as a mediator between the two parties paved the way for the signing of the peace agreement.

Owing to the highly political nature of its mandate, ONUSAL frequently encountered difficulties in seeking to fulfil it; nevertheless, such difficulties were offset by the "human factor", the will to conclude an agreement shown by both parties to the conflict and the determination and ability of the people involved in the process, who played a decisive role in ensuring that the UN force was set up and the peace agreement negotiated.

The preliminary agreement concluded between the parties to the conflict in San José granted ONUSAL very broad powers to monitor the implementation of international humanitarian law. However, ONUSAL made limited use of these powers, and the ICRC continued to carry out its humanitarian work for civilians as long as the conflict lasted. It was with the consent of this organization, and thanks to its experience, that ONUSAL gradually took over such tasks. ONUSAL might have been able to act with less restraint had it not been for its specific nature and limitations as a UN body.

According to the author, the sphere in which ONUSAL achieved the greatest degree of success was the administration of justice: particular efforts were made to ensure that judicial guarantees were respected during criminal procedures and to reorganize the judicial system as a whole. In other areas, however, ONUSAL could have played a broader role.

In drawing the lessons from this case study, Tathiana Flores Acuña makes a number of observations and offers some proposals for action. She also stresses the fundamental role played by ONUSAL in putting an end to the conflict in El Salvador and the importance of respect for international humanitarian law as a factor for peace.

Annexed to the study are the three ONUSAL reports, which provide readers with a valuable reference source.

In conclusion, this book deserves a place on the bookshelves of all those who are interested in international humanitarian law, especially students of the law applicable to non-international armed conflicts.

*Maria Teresa Dutli*  
ICRC Legal Division

**International Institute of Humanitarian Law (Louise Doswald-Beck, ed.), *San Remo Manual on International Law Applicable to Armed Conflicts at Sea*, Grotius Publications, Cambridge University Press, Cambridge, 1995, 257 pp.**

This *Manual* was prepared by international lawyers and naval experts convened by the International Institute of Humanitarian Law between 1987 and 1994. The last restatement of the law of naval warfare was in 1913, namely, the Oxford Manual on the Laws of Naval War Governing the Relations Between Belligerents. Much has, of course, changed since then. Most notably, the 1949 Geneva Conventions, their Additional Protocol I of 1977 and the 1982 United Nations Convention on the Law of the Sea have developed the relevant principles. Rather than prepare a draft treaty, the experts, drawn from a number of countries, set about writing down contemporary law so as to encourage its dissemination and the preparation of naval manuals with a much greater degree of uniformity. Indeed, the 26th International Conference of the Red Cross and Red Crescent (Geneva, 1995) urged States to draw up such manuals and encouraged them "to take into account, whenever possible" the provisions of the *San Remo Manual*.

The *Manual* deals with certain general provisions; regions of operations; basic rules and target discrimination; methods and means of warfare at sea; measures short of attack: interception, visit, search, diversion and capture; and protected persons, medical transports and medical aircraft. It begins by clearly stating, in 183 numbered paragraphs, the principles involved and goes on to devote 188 pages to an explanation of each paragraph.

The team of contributors, under the very able guidance of Louise Doswald-Beck, the *Manual*'s editor, have been able to combine sound practical guidance as to the relevant law with very detailed information for those who seek to know more about the provenance (for example, customary international law) and limits of a particular rule.

Quite naturally, the *Manual* borrows concepts from Additional Protocol I of 1977 and adapts them to the particular characteristics of naval warfare. Thus, paragraph 110 is similar to Article 37 of Additional Protocol I, in that it draws the line between perfidy and the ruses of war, and to Article 39, in that it prohibits the launching of an attack whilst flying a false flag, a throw-back to earlier methods of combat between warships. On the other hand, the *Manual* comes to the conclusion that there exists a customary international law rule prohibiting attacks upon the marine environment during armed conflict; it thus states, in paragraph 44, that "damage to or destruction of the natural environment not justified by military necessity and carried out wantonly is prohibited". This rule would appear to be much broader than those relating to armed conflict on land but the thrust of the *Manual*, namely, to set out contemporary customary international law, along with its progressive development, justifies such a conclusion. The drafters of paragraph 44 have formulated a rule with which few would disagree, since it is inextricably linked to military necessity and the general prohibition on damage carried out wantonly. The *Manual* takes the same approach when it places the law of naval warfare in the context of the current regimes of defined sea areas. Thus, combat may be carried out in an exclusive economic zone, although with "due regard" for the rights and duties of the coastal State.

Some attention is given to aircraft (such as civil aircraft and medical aircraft) in the *Manual* but it might be argued that a similar exercise should be carried out in respect of warfare in the air, which is not governed by existing treaty law.

This *Manual* is essential for all serious scholars of the international law of naval warfare. It will, no doubt, lead to a much greater interest in the subject within universities and it will clearly prove compatible with the practical requirements of naval commanders and their subordinates.

Peter Rowe  
Head of the Department of Law  
University of Lancaster  
United Kingdom

**Élisabeth Carrier, *Entre le rire et les larmes*,<sup>1</sup> Les Éditions de l'Homme, 1996, 358 pages**

No energy? Try reading the book by Canadian nurse Élisabeth Carrier. For 358 pages packed with feeling and compassion, readers are drawn into this admirable woman's whirlwind life and its two dominant themes — passion and commitment. Her love for traditional Africa, nurtured by childhood stories told by an uncle who worked there as a *Père blanc* missionary, together with her thirst for knowledge of other cultures and her desire to help the suffering, led Elisabeth Carrier to embrace a career as a nurse in countries of the Third World.

For over twenty years her humanitarian work — often for the ICRC — has taken her to Africa and Asia, for better or for worse. She remembers the “better” as being new friendships she forged, marvellous nights when she was lulled to sleep by the sound of tom-toms and songs expressing unquestioning faith, her joy at the discovery of cultural traditions as ancient as they were wise, and the satisfaction of being useful, at least some of the time. The “worse” encompasses nightmare visions of war — corpses lying in the street, children horribly mutilated by landmines, refugees languishing in camps as they face an increasingly hopeless future, starving people waiting in line for a handful of food to keep them alive. Another “worse” is the awareness that she cannot help everyone, that she is powerless to relieve all the suffering. Yet time and time again Elisabeth Carrier packs her bags and sets off to some other luckless corner of the world. What will it take to make this woman, with her obvious zest for life and her talent for happiness, to stop for just a moment and catch her breath?

Sylvie Fazzuoli  
Publications Division  
ICRC

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<sup>1</sup> *Between laughter and tears*

## Recent publications

### ***REFWORLD*, CD-ROM, United Nations High Commissioner for Refugees (ed.), Geneva, 1996**

Produced by the Centre for Documentation and Research of the United Nations High Commissioner for Refugees (UNHCR), this CD-ROM is intended to be a basic research tool for anyone interested in refugee law and, more generally, in information relating to refugees. It includes a series of very useful documents such as legal texts, UNHCR and United Nations documentation, recent country reports and a bibliographical database containing over 12,000 references.

It is easy to operate and user-friendly in a PC-compatible Windows environment. The only drawback is the price: the annual subscription costs 250 US dollars. The other alternative is to use the UNHCR Web site, which includes most of the information contained on the CD-ROM but is not so easy to handle.<sup>1</sup> The CD-ROM is available only in English.

### ***Catalogue des publications*, ICRC, Geneva, 1996, 109 pp.**

This new edition of the *Catalogue des publications* lists all the books, brochures and other texts published by the ICRC and available to the general public. The English and Spanish versions will come out later this year.

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<sup>1</sup> <http://www.unhcr.ch/refworld/refworld.htm>

**Mohamed El Asbali, *The National Red Cross and Red Crescent Societies and their activities under international humanitarian law* (title translated from Arabic), Benghazi, 1995, 343 pp. Available only in Arabic.**

This work gives an overview of the International Red Cross and Red Crescent Movement, in particular the National Societies, and outlines their legal situation, mandate and activities. It also includes an introduction to international humanitarian law. The author is legal adviser to the Libyan Red Crescent.

***World in crisis, Médecins sans frontières, Routledge, London and New York, 1996.***

This is the annual report for 1996 of *Médecins sans frontières*. Taking a broad view of humanitarian action, the report examines certain of today's major issues. Also available in French.

**Larry Minear and Philippe Guillot, *Soldiers to the rescue: Humanitarian lessons from Rwanda*, OECD Development Centre, Paris, 1996, 200 pp. Also available in French.**

The authors of this report analyse the role played by the armed forces in the tragedy that befell Rwanda. They endeavour to find an answer to the question as to whether it is advisable for armed forces to intervene in major humanitarian crises.

***Revue de droit militaire et de droit de la guerre — The military law and law of war review*, Vol. XXXV, 1996 (texts in French and English).**

This volume includes, *inter alia*, the Final Acts of the 23rd International Congress of the International Society for Military Law and Law of War (Vienna-Baden, 1994).

**Roger Durand (ed.), *Gustave Ador: 58 ans d'engagement politique et humanitaire (Gustave Ador: 58 years of political and humanitarian commitment)*, Proceedings of the Gustave Ador Seminar (Geneva, 1995), Gustave Ador Foundation, Geneva, 1996, 566 pp. Available only in French.**

To mark the 150th anniversary of the birth of Gustave Ador, a historical seminar was held in Geneva to examine the different roles he played during his lifetime: statesman, Swiss delegate to the League of Nations, and President of the ICRC during the First World War. This volume contains the texts of numerous papers given on that occasion.

**Timothy L.H. McCormack, Gerry J. Simpson (eds.), *The law of war crimes: National and international approaches*, Kluwer Law International, The Hague/London/Boston, 1997, 262 pp.**

In nine chapters this work covers all aspects of the "war crime" phenomenon. Eight authors examine the history of this particular type of offence, as well as the prosecution of war crimes at national level (with specific examples), the role of the two international criminal tribunals set up on an ad hoc basis for the former Yugoslavia and Rwanda, and also the plan to establish a permanent international criminal court.

**Adam Roberts, *Humanitarian action in war: Aid, protection and impartiality in a policy vacuum*, ADELPHI Paper 305, Oxford University Press for The International Institute for Strategic Studies, London, 1996, 96 pp.**

The author considers issues which are fundamental to the future of humanitarian action: the concept of intervention on humanitarian grounds, impartiality and neutrality, humanitarian problems linked to economic sanctions, the protection of relief workers (security aspects), and the coordination of humanitarian action at international level.

**Hans-Peter Gasser, "Collective economic sanctions and international humanitarian law — An enforcement measure under the United Nations Charter and the right of civilians to immunity: An unavoidable clash of policy goals?", *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht*, Vol. 56/4, 1996, pp. 871-904.**

This article examines the limits established by international humanitarian law which the Security Council has to take into account in any decision to impose collective economic sanctions.

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## **Miscellaneous**

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### **Award of the Paul Reuter Prize**

The 1997 Paul Reuter Prize for outstanding works in the field of international humanitarian law has, by unanimous decision, been awarded jointly to

**Major General A.P.V. Rogers**

Director of Army Legal Services in the United Kingdom,  
for his work entitled  
***Law on the Battlefield*,**<sup>1</sup>

and to

**Professor Geoffrey Best**

of St. Anthony's College, Oxford University,  
for his work entitled  
***War and Law since 1945*.**<sup>2</sup>

The jury emphasized the excellent quality of these works, which make a significant contribution to international humanitarian law.

*Law on the Battlefield* approaches international humanitarian law from the angle of military operations. Aimed at military lawyers and students of public international law, it focuses on the legal rules that should be known and incorporated into the military decision-making process by all officers holding command responsibility. The work sheds light on some rather obscure aspects of the law of armed conflict, without being too technical for non-lawyers or civilian readers.

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<sup>1</sup> A.P.V. Rogers, *Law on the Battlefield*, Manchester University Press, Manchester and New York, 1996, 170 pp. See *IRRC*, No. 312, May-June 1996, pp. 397 ff.

<sup>2</sup> Geoffrey Best, *War and Law since 1945*, Clarendon Press, Oxford, 1994, 434 pp. See *IRRC*, No. 305, March-April 1995, pp. 229 ff.

*War and Law since 1945* offers new insight, from an historical point of view, into the phenomenon of war and the limits placed on it by humanitarian law. In so doing it highlights the relationship between civilization and war. The central question addressed is whether legal restrictions really have a moderating impact on the conduct of war, whether they render military operations less cruel, and whether they provide broad protection for those affected by violence.

The jury of the Paul Reuter Prize, chaired by Paolo Bernasconi, a member of the International Committee of the Red Cross (ICRC), also comprises Professors Giorgio Malinverni and Christian Dominicé of the University of Geneva, Professor Daniel Thürer of the University of Zürich, member of the ICRC, Françoise Krill, ICRC Legal Adviser, and Hans-Peter Gasser, Editor-in-chief of the *International Review of the Red Cross*.

In 1982 the late Professor Paul Reuter, Professor Emeritus at the Paris University of Law, Economics and Social Sciences and former Chairman of the United Nations International Law Commission, made a donation enabling the ICRC to set up the Paul Reuter Fund, the income of which is used to support projects promoting knowledge and understanding of international humanitarian law.

The Fund also provides for the award every three years of the Paul Reuter Prize, worth 2,000 Swiss francs, in recognition of a particularly outstanding work in the field of international humanitarian law.

This is the fifth such award since the Fund was created. Professor Best and Major General Rogers will receive the prize at a ceremony in spring 1997.

ICRC  
Press Release No. 97/04  
11 February 1997

## **Karl Joseph Partsch (1914-1996)**

On 30 December 1996, Karl Josef Partsch, Professor Emeritus at the University of Bonn, died at the age of 82. One of the most prominent German international lawyers, Professor Partsch devoted a major part of his life's work to the cause of human rights, both in his writing and in his practical activities. He was particularly well versed in this area, having learnt the hard way what racial discrimination meant. Indeed, a career as a lawyer in the public service or even as an attorney was closed to him in Germany until 1945, for racial reasons. His practical work as an international lawyer began in the 1950s when he was appointed assistant to the first legal adviser of the newly established German Foreign Office, Erich Kaufmann. Previously, in 1946, he had embarked on a prolific literary production, with strong emphasis on human rights issues. From 1957 he taught public law and international law at the universities of Kiel, Mainz and Bonn. Professor Emeritus since 1979, he continued to hold seminars, the circle of his former and current doctoral students remaining a challenging intellectual focal point until a short time before his death. Two highlights of his activity in support of human rights are his 20 years (1970-1990) of uninterrupted membership of the Committee on the Elimination of Racial Discrimination, an unparalleled record of re-election which reflected the high esteem his work had won among the international community, and his membership of the Human Rights Committee of the UNESCO Executive Board, a position he held until quite recently.

His first political encounter with international humanitarian law *stricto sensu* was as a delegate at the International Conference on Human Rights held in Teheran in 1968. That Conference adopted the famous Resolution XXIII, "Human rights in armed conflict", which triggered the process leading to the Geneva Diplomatic Conference of 1974-1977 and ultimately to the adoption of the two Protocols additional to the Geneva Conventions. Professor Partsch was a member of the German delegation to the Geneva Conference. He dealt with issues on the borderline between human rights and international humanitarian law, such as Article 75 of Protocol I and

the human rights provisions of Protocol II, and was also the author of an early, unofficial attempt (a "non-paper") to bridge the dividing line between the Western States and the Third World on the issue of liberation movements. This initiative was characteristic of his independent and creative mind; his ideas were not necessarily to everyone's liking, but they were refreshingly reasonable.

After the Conference he published, together with Waldemar Solf and the author of these lines, the first Commentary on the two Additional Protocols.<sup>1</sup> He remained a great disseminator of international humanitarian law until very recently.

In 1973, the German Red Cross set up an Advisory Committee on International Humanitarian Law, of which Karl Josef Partsch was a member right from the start, and in which he faithfully participated until the last meeting shortly before his death, on 4 November 1996. This was the last time the author of these lines was to meet him.

While his academic work was influenced by his practical experience, his practical work was inspired by his academic background. His wisdom stemmed from a profound knowledge of history.

Karl Josef Partsch made a deep impression on all those who had the privilege to work or to engage in intellectual dialogue with him. Conversations with him were frank and inspiring. He was a man whom we will not forget.

*Michael Bothe*  
Johann Wolfgang-Goethe-Universität  
Frankfurt am Main, Germany

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<sup>1</sup> M. Bothe, K.J.Partsch, W.A. Solf, *New rules for victims of armed conflicts, Commentary on the two 1977 Protocols additional to the Geneva Conventions of 1949*, Martinus Nijhoff Publishers, The Hague/Boston/London, 1982, 746 pp.

## **How the Geneva Conventions saved the life of Karl Joseph Partsch**

Professor Partsch once told me a story which is worth repeating:

After the end of the Second World War, Partsch was a German POW in the hands of the Allies in Italy, where he had served as an interpreter. Together with other prisoners he was ordered to take part in mine-clearance operations in the port of Genoa. Partsch refused, arguing that according to the 1929 Geneva Convention a POW could not be obliged to take part in such dangerous activities as the clearing of naval mines. The commanding officer accepted this position, and Partsch stayed ashore watching the minesweeper leave the quay. Within minutes the boat hit a mine, and all on board perished.

Professor Partsch never forgot what he owed the Geneva Conventions.

*Hans-Peter Gasser*  
Editor-in-chief

## **Articles submitted for publication in the International Review of the Red Cross**

The *International Review of the Red Cross* invites readers to submit articles relating to the various activities of the International Red Cross and Red Crescent Movement or to international humanitarian law. These will be considered for publication on the basis of merit and relevance to the topics covered by the *Review*.

Manuscripts may be submitted in *English, French, Spanish, Arabic* or *Russian*.

Texts should be typed, double-spaced, and no longer than 20 pages (or 5,000 words). The word processing software used by the ICRC is AmiPro 3.1. If possible, therefore, documents should be submitted on diskette with the texts in either AmiPro or ASCII.

*Footnotes* should be numbered superscript in the main text. They should be typed, double-spaced, and grouped at the end of the article.

*Bibliographical references* should be given in the original language of publication and should include the following details:

(a) for *books*, the author's initials and surname (in that order), book title (in italics), place of publication, publisher and year of publication (in that order), and page number(s) referred to (p. or pp.);

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The *Review* reserves the right to edit all articles before publication.

Manuscripts, whether published or unpublished, will not be returned.

Manuscripts, correspondence relating to their publication and requests for permission to reproduce texts appearing in the *Review* should be addressed to the editor.

**Texts published by the *Review* reflect the views of the author alone and not necessarily those of the ICRC. The same applies to editorial texts. Only texts bearing an ICRC signature may be ascribed to the institution.**

# **International Institute of Humanitarian Law**

## **22nd Round Table on current problems of international humanitarian law**

### **IMPACT OF HUMANITARIAN ASSISTANCE AND OF MASS MEDIA ON THE EVOLUTION OF CONFLICT SITUATIONS**

San Remo, 3-6 September 1997

Under the auspices of the International Committee of the Red Cross,  
the United Nations High Commissioner for Refugees,  
the United Nations High Commissioner for Human Rights,  
the International Organization for Migration and  
the International Federation of Red Cross and Red Crescent Societies

For any information, please contact:  
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The *International Review of the Red Cross* is the official publication of the International Committee of the Red Cross. It was first published in 1869 under the title "Bulletin international des Sociétés de secours aux militaires blessés", and then "Bulletin international des Sociétés de la Croix-Rouge".

The *International Review of the Red Cross* is a forum for reflection and comment and serves as a reference work on the mission and guiding principles of the International Red Cross and Red Crescent Movement. It is also a specialized journal in the field of international humanitarian law and other aspects of humanitarian endeavour.

As a chronicle of the international activities of the Movement and a record of events, the *International Review of the Red Cross* is a constant source of information and maintains a link between the components of the International Red Cross and Red Crescent Movement.

The *International Review of the Red Cross* is published six times a year, in five languages:

French: REVUE INTERNATIONALE DE LA CROIX-ROUGE (since October 1869)

English: INTERNATIONAL REVIEW OF THE RED CROSS (since April 1961)

Spanish: REVISTA INTERNACIONAL DE LA CRUZ ROJA (since January 1976)

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